


January 17, 2025




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

RE: 
Reference: #25-145

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 , 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 included the parents in the IEP team’s decisions made during the 2023-2024 school year,¹ in accordance with 34 CFR § 300.324.
2. The MCPS did not ensure that the student was provided with the specialized instruction required by the IEP during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Specifically, you allege that the student did not receive the “plug in” services that were to be provided by a special educator.

¹ Although the allegation states “during the 2023-2024 school year,” based on the date that the complaint was filed and the statutory requirement that this office only has authority to investigate allegations of violations that occurred not more than one year from the date the complaint is received, the investigation timeframe is from November 2023 through May 2024.

3. The MCPS did not ensure that the student's progress towards achieving the IEP goals were measured in the manner required by the IEP, during the 2023-2024 school year, in accordance with 34 CFR § 300.320.

BACKGROUND:

The student is 10 years old and was identified as a student with Specific Learning Disability (SLD) () under the IDEA. The student attends () and previously had an IEP that required the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The IEP in effect for the student in November 2023 is dated October 14, 2023. The IEP reflects the student's primary disability as SLD with math problem solving, reading comprehension, written language content, and self-management as the areas affected by the student's disability.

The IEP required the following special education services:

- Five, one hour and 55-minute sessions of classroom instruction in general education weekly:
 - "7.5 hours weekly across content areas provision of supplementary aids and services to support, decoding and comprehension, attention, math and writing within the general education classroom provided by classroom staff coordinated by special education teacher.
 - 3 x 30 weekly writing/comprehension plug in by special education provider in collaboration with [general education] [GE] teacher to support goals in this area.
 - 2 x 30 minutes weekly math plug in by special education in collaboration with [GE] teacher to support goals in this area."

The IEP required the following IEP goals:

- Behavioral - Self-management:
 - "By October 2024, given a grade level task, a list of expectations, 1 verbal or visual redirection, and proximity to adult, in a whole group or independent task, [the student] will independently begin and complete a task and successfully transition throughout the school day with 90% accuracy on 4 out of 5 trials."
 - Method of Measurement: Informal Procedures: Classroom tasks
Observation.
- Reading Comprehension:
 - "By October 2024, given grade level text, direct instruction, verbal and visual models and small group instruction, [the student] will [sic] use taught strategies to respond to comprehension questions while also applying characteristics of the story to related topics, inferring and applying knowledge, with 80 % accuracy on 4 out of 5 trials."
 - Method of Measurement: Informal Procedures: Classroom writing tasks
Classroom-Based Assessment: Curriculum unit assessment writing tasks.

- Math Problem Solving:
 - “By October 2024, given targeted, explicit instruction in small group, re-teaching and practice with manipulatives and checklists, [the student] will independently apply strategies to solve 3 step word problems with 80% accuracy on 4 out of 5 trials.”
 - Method of Measurement: Informal Procedures: Classroom tasks Classroom-Based Assessment: Unit and mid module assessment Standardized Assessment: MAP assessment.
 - Written Language Content:
 - “By October 2024, given read to or text at his reading level, direct strategy instruction, checklists, models, sentence frames and content vocabulary lists [the student] will write complete a writing task with a beginning, middle, and end with 80 % accuracy on 4 out of 5 trials.”
 - Method of Measurement: Informal Procedures: Classroom writing tasks Classroom-Based Assessment: Curriculum based assessment.
2. The progress reported on the student’s annual Behavioral - Self-management, Reading Comprehension, Math Problem Solving, and Written Language Content goals in November 2023 reflects “Newly Introduced skill; progress not measurable at this time.”
 3. On January 18, 2024, the IEP team convened for a re-evaluation meeting to discuss the academic and psychological assessment reports and determine the student's eligibility for special education services. The prior written notice (PWN) generated after the meeting reflects the team determined it would reconvene on February 27, 2024, “to allow for more data to be cited” and to continue the discussion “to address all the areas of testing and what informs the decisions of eligibility.” The PWN reflects that the student’s parents were at the meeting and shared concerns about their struggles with homework.
 4. The progress reported on the student’s annual IEP goals in February 2024 reflects the following:
 - Behavioral - Self-management: Achieved
 - Actual Results Achieved: 4 out of 5 trials
 - “Based on classroom observations and behavior data, [the student] has demonstrated that he is able to transition and participate in daily routine. As cited in the classroom observation he was able to listen to classroom instruction as it related to his essay, introductory paragraph. He first listened then followed the instruction independently working throughout the allotted time given to students. He is able to transition along with his peers with no more than one to two verbal prompts.”
 - Reading Comprehension: Achieved
 - Actual Results Achieved: 80 % Accuracy
 - “[The student] has demonstrated through class discussion, class reading comprehension practice, and benchmark passages that he is able to draw key details from text as they relate to questions about the text. In addition, he is able to identify similarities between related texts. He also demonstrated that he can infer about characters in stories as it relates to text questions and discussions.”

- The student's progress was not reported using the evaluation method required by the IEP and includes no data. It does not reflect the criteria for retention. There is no data from the identified data sources to verify the progress reported.
 - Math Problem Solving: Achieved
 - Actual Results Achieved: 80 % Accuracy
 - "[The student] has demonstrated his ability to read and interpret 2 to 3 step words problems in his turned in exit ticket work, done following math whole group instruction. He is able to create visual models as it relates to the word problems presented to him and he is able to solve according to the steps he has identified. He has demonstrated his capabilities on classroom work and tests in addition to the formalized Woodcock Johnson assessment."
 - The student's progress was not reported using the evaluation method required by the IEP. It does not reflect the criteria retention. There is no data from the identified work sources to verify the progress reported.
 - Written Language Content: Achieved
 - Actual Results Achieved: 80 % Accuracy
 - "[The student] has demonstrated through his formalized written essays and whole group practice assignments that he can create paragraphs that include a topic sentence that relates to the overarching premise of the essay topic, throughout his body paragraphs. He demonstrated his use of the graphic organizer tools done as part of the assignment introduction. He included the supporting evidence or ideas with the use of an evidence based graphic organizer. He utilized transition words throughout his essays. He was able to demonstrate his understanding of the structure of an introductory paragraph. It is evident that he demonstrates his ability to follow along with classroom instruction of how to write an essay."
 - The student's progress was not reported using the evaluation method required by the IEP. It does not reflect the criteria retention and there is no data from the identified work sources to verify the progress reported.
5. On February 27, 2024, the IEP team reconvened to continue the reevaluation determination for the student. The PWN generated after the meeting reflects that after the team discussed the assessments, areas of concern as shared by the parents and complainant, and the impact of private tutoring services on the student's ability to make progress on his goals versus the special education services the student received in school. The "school team proposed reconvening to determine eligibility after data compilation and review as there were questions regarding the need for instruction vs. accommodation...there [was] a need to review the school's specific data surrounding [the student's] performance, level of intervention, level of support, and use of accommodations." The parents and the complainant agreed.

6. The progress reported on the student's annual IEP goals in April 2024 reflects the following:

- Behavioral - Self-management: Achieved
 - Actual Results Achieved: 4 out of 5 trials
 - "Based on classroom observations and behavior data, [the student] has demonstrated that he is able to transition and participate in daily routine. As cited in the classroom observation he was able to listen to classroom instruction as it related to his essay, introductory paragraph. He first listened then followed the instruction independently working throughout the allotted time given to students. He is able to transition along with his peers with no more than one to two verbal prompts. He is able to turn in and complete work on time. His ability to demonstrate his understanding and stay on task is shown in his grades which reflect his progress throughout the quarter."
 - The student's progress was not reported using the evaluation method required by the IEP. There is no data from the identified sources to support the progress reported.
- Reading Comprehension: Achieved
 - Actual Results Achieved: 80 % Accuracy
 - "[The student] has demonstrated his ability infer, annotate, and cite independently. He has demonstrated his capabilities through classroom reading assignments and informal benchmark assessments. He is able to read through a short passage and answer questions surrounding the topic that involve both inferring and citing specific evidence. He is also able to demonstrate his understanding of the ideas presented through his written responses and answering of questions. He has most recently been asked to utilize his ability to annotate and cite when preparing for the use of the hamburger model as it relates to his writing about a couple different topics."
 - The student's progress was not reported using the evaluation method required by the IEP. It does not reflect the criteria for retention and there is no data from the identified work sources to support the progress reported.
- Math Problem Solving: Achieved
 - Actual Results Achieved: 80 % Accuracy
 - "[The student] has demonstrated his ability to complete multi-step problems throughout the entirety of this quarter. He has completed multiple exit tickets and class quizzes and tests that have word problems with multiple steps. He is also able to create visual models as it relates to both fractions and decimals across all assignments within the classroom. He is demonstrating his ability to follow classroom paced instruction and independently complete multi-step problems that require visual and written responses to answer in its entirety."
 - The student's progress was not reported using the evaluation method required by the IEP. It does not reflect the criteria for retention and there is no data from the identified work sources to support the progress reported.

- Written Language Content: Achieved
 - Actual Results Achieved: 80 % Accuracy
 - “[The student] has been able to demonstrate his ability to complete entire paragraphs that consist of an introduction and concluding sentence that are supported by multiple ideas within the paragraph. He has been utilizing a writing checklist and is more independently self-editing and working through the essay process. He is also completing the graphic organizers provided as part of the writing instruction independently. He is using the graphic organizers he completes in both the hamburger model practice activity and the essay drafting. He is also writing entire complete and thought out paragraphs that include all areas specified. He was able to complete the previous autobiography essay assignment independently up to the editing phase. He worked through the checklist with some support to practice how to utilize it. He then worked with peers to edit his work as well.”
 - The student’s progress was not reported using the evaluation method required by the IEP. It does not reflect the criteria for retention. There is no data from the identified work sources to support the progress reported.
7. On April 30, 2024, the IEP team reconvened to determine the student’s eligibility. The PWN generated after the meeting reflects that after reviewing the quantifiable data per the parent’s request, work samples, the psychological report and other assessments that were conducted to determine the student’s present levels of functioning in academics and executive functioning, “the school team agreed that the student is performing well in the classroom and is no longer eligible for services.” The student’s parents did not agree with this decision. The PWN reflects the IEP team discussed other eligibility options, but it was determined that there was not enough data to support those considerations. It was recommended that the student be considered for a 504 plan² to provide the student with support “through classroom and testing accommodations.” The parents “agreed that they would like all supplementary aids and instructional support to be formally transferred to the 504 plan.”
- The PWN for this meeting is dated May 6, 2024.
8. The student's IEP dated April 30, 2024, reflects the student’s primary disability as SLD ([REDACTED]). No areas affected by the disability are provided. The IEP reflects the most recent IEP team meeting date as April 30, 2024. The IEP reflects the student as “Exit Category: A – Returned to general education.”
9. While there is some documentation that the student received the specialized instruction required by the IEP, it does not demonstrate that it was consistently provided from November 2023 to April 2024 when the student was dismissed from special education services.

² “Section 504” refers to Section 504 of the Rehabilitation Act of 1973, which requires 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).

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1 PARENT PARTICIPATION IN IEP TEAM DECISIONS

In this case, the complainant alleged that the student's special education service model was changed outside of an IEP meeting. However, the investigation revealed that the service model was not changed in the IEP or in the method of delivery. The IEP in effect in November 2023, dated October 24, 2023, reflects that the student was to receive three 30-minute plug-in services for writing and comprehension and two 30-minute plug-in services in math provided by the special education teacher weekly. When the student was provided with special education services it was provided per the IEP. On April 4, 2025, the IEP team dismissed the student from special education services. There is documentation that any parent and advocate disagreements with the IEP team were noted in the PWNs.

Based on the Findings of Fact #1, #3, #5, #7, and #8, MSDE finds that the MCPS did ensure that the IEP team included the parents in IEP team's decisions made on January 18, 2024, February 27, 2024, and April 30, 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE finds no violation concerning the allegation.

ALLEGATION #2 PROVISION OF SPECIAL EDUCATION INSTRUCTION

Based on the Finding of Fact #9, MSDE finds that the MCPS did not ensure that the student was consistently provided with the specialized instruction "plug-in" services required by the IEP from November 2023 to April 2024, in accordance with 34 CFR §§ 300.101 and .323(c)(2). Therefore, MSDE finds that a violation occurred concerning the allegation.

ALLEGATION #3 REPORTING OF PROGRESS

An IEP must include a statement of measurable annual goals, including academic and functional goals that includes a description of how the child's progress toward meeting the annual goals will be measured. (34 CFR § 300.320).

In this case, progress reported for the student in February 2024 and April 2024 did not provide data to support the narrative regarding the student's progress. There was no report of the student's success on each trial to identify their retention of the goal, as indicated in the IEP.

Based on the Findings of Fact #1, #4, and #6, MSDE finds that the MCPS did not ensure that the student's progress towards achieving the IEP goals was measured in the manner required by the IEP during the 2023-2024 school year from November 2023 to April 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds 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. 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.³ 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 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 April 17, 2025, MSDE requires the MCPS to provide documentation that the school system has:

- Convened an IEP team meeting and determined whether there was any negative impact from the violations identified in this Letter of Findings. If the team determines that there was a negative impact, they must also determine the amount and nature of compensatory services or other remedies to redress the violations and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

School-Based

MSDE requires the MCPS to provide documentation by April 17, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of the provision of specialized instruction and the documentation of such, and the reporting of progress toward IEP goals as required by the IEP under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance.

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. Request for reconsideration should be submitted to Tracy Givens, Section Chief, Dispute 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.

³ 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.

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/ebh

c: Dr. Thomas W. Taylor, Superintendent, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
Maritza Macias, Paralegal, MCPS
Eve Janney, Compliance Specialist, MCPS
[REDACTED], Principal, [REDACTED], MCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
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