


January 24, 2025




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

RE: 
Reference: #25-155

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 27, 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 has not developed an Individualized Education Program (IEP) that addresses the student’s identified needs since August 2024, in accordance with 34 CFR § 300.324. Specifically, the complainant alleged that the IEP does not include present levels of academic achievement and functional performance in the area of attention, and there are no executive functioning or social-emotional behavioral IEP goals.
2. The MCPS has not provided the student with reading and math interventions, specialized instruction in co-taught/supported classes, and one to one support required by the IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is 13 years old and is identified as a student with multiple disabilities (specific learning disability (SLD), other health impairment (OHI)) under the IDEA. The student attends  and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The IEP in effect in August 2024 is dated April 24, 2024, and was amended on May 8, 2024. The IEP reflects the student's primary disability as Multiple Disabilities (Specific Learning Disability, Other Health Impairment) with math calculation, math problem solving, reading comprehension, reading phonics, written language expression, written language mechanics, executive functioning, and social-emotional/behavioral as areas affected by the disability.

The present level of academic achievement and functional performance (PLAAFP) data in the IEP reflects the student performing on the following instructional grade levels:

- Reading Phonics - Fifth Grade Level;
- Reading Comprehension - "6th (independent)/7th grade (instructional) with scattered skills between the 4th-7th grade level;"
- Math Calculation - "2- 4th grade level scattered skills;"
- Math Problem Solving - "2nd grade (independent) with scattered skill at 1st-3rd grade level;"
- Written Language Mechanics – Fourth Grade Level;
- Written Language Expression - "7th Grade- Narrative Writing 6th grade- Informational and Opinion/Argument Writing;"
- Social Emotional/Behavioral - "Below Age-level expectancy;" and
- Executive Functioning - "Below Age-level expectancy."

The IEP requires the following Assistive Technology (AT) devices:

- "[The student] requires access to a calculator both calculator and non-calculator sections of any assessment where math computations are involved. [The student] requires access to word prediction for writing tasks."

The IEP requires the following instructional and assessment accommodations:

- General Administration Directions Clarified;
- General Administration Directions Read Aloud and Repeated as Needed;
- Redirect Student;
- Text to Speech for Mathematics, Science, and Government Assessments;
- Human Reader or Human Signer Mathematics, Science, and Government Assessments;
- Small group;
- Frequent breaks;
- Reduce distractions to self;
- Notes and outlines;
- Calculation device and mathematics tools (on Calculation Sections of the Mathematics Assessments);
- Calculation device and mathematics tools (on NON-Calculation Sections of the Mathematics Assessments);
- Monitor Test Response;
- Extended Time (1.5X); and
- Unique Timing and scheduling accommodations.

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

- Evidence based math intervention, daily;
- Pre-teach reach back skills aligned to grade level math concepts, weekly;
- Guided support and instruction for independent work: "Provide adult guided instruction and support whenever [the student] is expected to work independently;"

- Pair pictorial/concrete representation with abstract concepts in math, weekly; and
- Strategies to initiate and sustain attention daily.

The IEP requires the following IEP goals:

- Math Problem Solving: "By April 23, 2025, given evidence-based instruction, opportunities for repeated practice with gradual release, pairing concrete/pictorial representation with abstract equations, chunking multi-step problems into single steps, and a calculator, and a problem-solving checklist, [the student] will accurately solve real multi-step word problems that contain whole numbers fractions, or decimals, and/or using functions, algebra, measurement, and geometric models using the four standard operations (addition, subtraction, multiplication, division) in 4 out of 5 opportunities across 3 consecutive opportunities."
- Reading Comprehension: "By April 2025, Given a an extended text, direct instruction, teacher modeling, opportunities to read instructional and grade level text, sentence starters, frontloading of content vocabulary, and opportunities for chunking and discourse, [the student] will cite textual evidence when answering explicit and inferential questions (including questions about the theme/central message and vocabulary) and summarize key information within a grade level extended passage or book text both orally and in writing (in 80% of opportunities across a marking period, measured by informal and formal data collection)."
- Written Language Expression: "By April 2025, given a general writing prompt (narrative, opinion, or informational), pre-writing conference, graphic organizers, writing checklists/rubrics, access to a word processor, and teacher feedback throughout the writing process, [the student] draft two or more body paragraphs to support a claim/thesis in a multi-paragraph essay in 2 out of 3 opportunities during a marking period."
- Math Calculation: "By April 2025, Given direct small group instruction, modeling, prompting, manipulatives, a calculator, opportunities for practice, formula sheets, and breaking down grade-level problems into individual steps, [the student] will add, subtract, multiply, and divide rational numbers and represent proportional relationships between quantities in 2 out of 3 trials by April 2025."
- Reading Phonics:
 - "Decoding: By April 23, 2025, Given evidence-based, multi-sensory, and systematic instruction in decoding, syllabication patterns, and morphology and frequent opportunities to practice, [the student] will decode multi-syllabic words (e.g. 2-4 syllables) containing vowel teams, common prefixes and suffixes, and welded sounds with 80% accuracy on 3 out of 4 opportunities."
 - "Encoding: By April 23, 2025, Given evidence-based, multi-sensory, and systematic instruction in encoding, syllabication patterns, and morphology, and frequent opportunities to practice, [the student] will encode one- and two-syllable words containing a prefix, suffix, vowel team, or requiring use of the doubling rule with 80% accuracy on 3 out of 4 opportunities."
- Written Language Mechanics: "By April 2025, given a proofreading checklist, rubric/criteria for success, rewriting conference, access to a word processor with spell check and grammar check, revising/editing conferences, word prediction with staff, modeling, and opportunities for practice, [the student] will accurately use capitalization and punctuation with in a paragraph and use tools to accurately correct her spelling and grammar with 80% accuracy across 4 out of 5 writing samples."

The IEP requires the following special education and related services:

- One, two-hour session of classroom instruction outside general education provided by the Special Education Classroom Teacher or Instructional Assistant, weekly;
- Five, forty-five-minute sessions of classroom instruction inside general education provided by the General Education Teacher, Instructional Assistant, Special Education Classroom Teacher, daily;
- Three, forty-five-minute sessions of classroom instruction outside general education provided by the Special Education Teacher, weekly: "Special Education - Classroom Instruction: [The student] should have a phonics based, multisensory, Reading Intervention in a self-contained environment for 2 hours weekly.;
- Four, forty-five-minute sessions of classroom instruction outside general education provided by the General Education Teacher, Instructional Assistant, Special Education Classroom Teacher, weekly;
- One, fifteen-minute session of counseling services provided by the School Counselor, monthly: "Related Services - Counseling Services: Structured discussion about friendships, peer pressure, and other social situations using consistent questions;" and
- "Special Education - Classroom Instruction: 2024-2025 (8th): Co-Taught/Supported: English, Math, History, Science. The Other Service providers in Co-Taught/Supported classes will either be a para educator or a special education teacher."

The IEP does not require one-to-one support for the student.

2. On December 2, 2024, the IEP team convened as requested by the complainant. The prior written notice (PWN) generated after the meeting reflects the team proposed to discuss the student's progress in math, science, and history. The IEP team reviewed "the updated teacher reports, MAP scores from Fall, 2024, and work samples" in making its decisions. The school-based team addressed the complainant's requests to reinstate the student's executive functioning self-management and social-emotional goals in the student's IEP, add a present level in the area of attention, "parse out" the student's SLD diagnosis, and drop physical education from the student's daily schedule while adding a math and reading intervention into the schedule. The complainant also shared that she disagreed that the student was making progress on her math problem solving goal because the student failed math.

The IEP team refused to reinstate the student's social emotional goal because "there are no observed concerns that necessitate a goal be written." The IEP team refused to add a present level in the area of attention because the student's "attention concerns are addressed under the Executive Functioning concerns." The PWN reflects the student did not meet the criteria for "Attention."

The PWN reflects the IEP team agreed to a continuation meeting to discuss the complainant's concern with the "MP1 Progress Notes" that state with her math problem-solving goal.

3. There is documentation that the student has received the specialized instruction in co-taught/supported classes and the reading intervention required by the IEP since August 2024.
4. There is no documentation that the student received the math intervention required by the IEP.¹

¹ The MCPS asserts that the IEP team agreed to remove the student's math intervention during an IEP meeting in April 2024, but the team did not amend the IEP. However, that information lies outside of the purview of this investigation and MSDE must consider what is included in the student's IEP.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1 DEVELOPMENT OF THE IEP

Based on the Findings of Fact #1 and #2, MSDE finds that the MCPS has developed an IEP that addresses the student's identified needs since August 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds no violation concerning the allegation.

ALLEGATION #2 PROVISION OF SPECIAL EDUCATION INSTRUCTION AND ONE-TO-ONE SUPPORT

Reading Intervention, Specialized instruction in co-taught/supported classes, and one-to-one support

Based on the Findings of Fact #1 to #3, MSDE finds that the MCPS has provided the student with reading intervention and specialized instruction in co-taught/supported classes and was not required to provide the student with one-to-one support by the IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds no violation regarding these allegations.

Math Intervention

Based on the Finding of Fact #4, MSDE finds the MCPS has not provided the student with the math intervention required by the IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office 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.² 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.

² 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.

Student-Specific

By April 24, 2025, MSDE requires the MCPS to provide documentation that the school system has:

- Convened an IEP team meeting and determined the amount and nature of compensatory services or other remedies to redress the failure to provide the student with the math intervention required by the IEP and developed 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 24, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of IEP services under the IDEA. These steps must include staff development.

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.

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
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE