


January 24, 2025




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

RE: 
Reference: #25-156

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 did not follow proper procedures when conducting a reevaluation of the student since November 2023, in accordance with 34 CFR §§ 300.303-.306 and COMAR 13A.05.01.06.
2. The MCPS did not ensure that the student’s Individualized Education Program (IEP) in effect since September 2024 contains measurable annual goals, in accordance with 34 CFR §§ 300.320 and .323.

BACKGROUND:

The student is 13 years old and is identified as a student with Autism under the IDEA. He attends  and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On November 16, 2023, MCPS generated an IEP team meeting notice for a meeting scheduled for November 29, 2023, to review and, if appropriate, revise the IEP, consider reevaluation to determine the need for additional data, and determine services and/or continued eligibility.

2. On November 21, 2023, MCPS conducted a psychological assessment.
3. On November 27, 2023, MCPS conducted an informal reading assessment¹.
4. On November 29, 2023, MCPS conducted an educational assessment.
5. There is documentation that MCPS conducted a Functional Behavior Assessment (FBA), however, it does not reflect the date it was conducted².
6. There is no documentation that the complainant was provided with accessible copies of each document the IEP team planned to discuss at the November 29, 2023, IEP team meeting at least five business days before the scheduled meeting.
7. On November 29, 2023, the IEP team convened to conduct a reevaluation meeting and determine continued eligibility for special education services. The Prior Written Notice (PWN) generated after the meeting reflects that MCPS proposed presenting new data from the November 2023 assessments, agreed upon at the September 1, 2023, IEP team meeting.

The PWN reflects that the IEP team reviewed the “psychological 2023, educational 2023, and FBA 2023.” Based on this review, the team determined that the student continues to be eligible for services under the educational classification of Autism and does not require the support of a Behavior Intervention Plan (BIP).

The PWN does not reflect any changes made to the IEP developed on November 29 and does not include detailed information on what the IEP team discussed and proposed.

8. The Specific Learning Disability Team Report generated on November 29, 2023, reflects the IEP team used “MAP, WJ ACH Evaluations, Informal Reading Inventory” to determine the student does not achieve adequately in the area of math calculation and reading comprehension and is a student with a specific learning disability who requires the provision of special education services in order to receive a free, appropriate public education (FAPE) under IDEA.
9. The IEP developed on November 29, 2023, reflects that the IEP team updated the date of the IEP and the Present Levels of Academic Achievement and Functional Performance (PLAAFP). However, there is no documentation demonstrating that the IEP team used the “psychological 2023, educational 2023, or the FBA 2023” data reviewed during the meeting to update the PLAAFP. The IEP goals continued from the prior IEP.
10. There is no documentation that the complainant received a copy of the updated IEP after the meeting held on November 29, 2023.
11. On January 22, 2024, the IEP team convened to review and revise the IEP as appropriate. The PWN reflects that the IEP team proposed providing support for the student to participate in after-school activities.

¹ The Document is in draft form.

² The FBA notes the complainant signed consent on September 1, 2023.

12. On September 13, 2024, the IEP team convened to review and revise the IEP as appropriate and to “discuss events that occurred during the first three weeks of school.” The PWN reflects that the IEP team discussed the student’s recent behaviors and decided to collect classroom data on challenging behaviors and implement a behavior contract to determine if an FBA would be warranted in the future. The team also proposed amending the IEP to include a behavior contract and adding to services counseling support to be provided once every two weeks.

During the IEP meeting, the IEP team reviewed the student’s progress toward IEP goals and determined that the goals and the IEP would be updated prior to the next scheduled meeting. The complainant expressed concern about repeated errors in IEP drafts and noted that they had not received a copy of the latest educational assessment that was to be reviewed in the evaluation meeting held on November 29, 2023. They requested that the updated draft and assessment be provided.

13. On September 16, 2024, via email, the MCPS provided the complainant the student’s educational assessment “Woodcock-Johnson IV (WJ-IV) reports from 2023.”
14. On September 25, 2024, the IEP team convened to update the student’s annual IEP and discuss concerns raised by the complainant. The PWN reflects that the IEP team proposed a draft IEP, which includes updated present levels of performance that provided data from the educational assessment, IEP goals, accommodations, supplementary aids and services, ESY eligibility, transition services, and goals. The IEP team also recommended continued special education classroom instruction outside of general education for math, reading intervention, resource, English, and instruction within the general education setting for science, social studies, and Physical Education.
15. The PWN reflects that the complainant, in prior emails, requested that the student be evaluated for a speech-language disorder in the area of pragmatics and that a pragmatic language goal be added for self-advocacy and expected behaviors. MCPS proposed to conduct a speech-language assessment in the area of pragmatics to determine the need for specially designed instruction, and proposed that needs related to self-advocacy and expected behaviors be addressed primarily through social skills instruction, with support from the speech-language pathologist embedded in the current speech goals.
16. The September 25, 2024, IEP reflects the student’s academic goal in the area of Reading Comprehension. The goal states: “By September 2025, given access to text-to-speech tools, small group instruction, the use of a highlighter, chunked texts, access to paper copies of readings, simplified sentence structure, vocabulary and graphics, and preview of key vocabulary/terms, [student] will make effective use of pre, during, and post reading strategies to track his comprehension and gather details, ideas, and evidence in response to comprehension prompts in 4 out 5 trials with 85% accuracy.

The September 25, 2024, IEP reflects the student’s academic goal in the area of written language content. The goal states: By September 2025, given graphic organizers, opportunities for oral rehearsal of written responses, small group instruction, sentence starters/frames, graphic organizer, modeling, writing and editing checklists, repetition, teacher feedback, and practice, [Student] will write analysis, explanatory, and informative texts that examine complex ideas and concepts with effective details, support, and organization with 80% accuracy.

The September 25, 2024, IEP reflects the student's academic goal in the area of math problem solving. The goal states: By September 2025, given direct instruction, teacher modeling, repeated practice, access to math visual supports, and the use of a calculator, [student] will apply known strategies to math problems presented in a different way or unfamiliar context involving geometry, radicals and integers, proportions and linear equations, and irrational numbers as measured by a score of 80% on 3 out of 5 work samples.

The student's other goals are also measurable and include the required elements.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT

As part of the reevaluation, the IEP team must review existing data, including evaluations and information provided by the parents, current classroom-based, local, or State assessments, classroom-based assessments, and observations by teachers and related service providers. On the basis of that review, and input from the student's parents, the team must identify what additional data, if any, are needed to determine whether the student continues to meet the criteria for identification as a student with a disability and whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals in the IEP (34 CFR § 300.305 and COMAR 13A.05.01.06).

In addition, when conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

In this case, the complainant alleges that the IEP team did not use the educational assessment it had deemed necessary to evaluate the student's current needs, assess eligibility, and update the IEP to ensure access to the general education curriculum. While the November 29, 2023, PWN reflects that the IEP team considered the November 2023 educational assessment; the PWN also reflects that the educational assessment was completed on the same day as the IEP team meeting. The IEP developed on November 29, 2023, did not include the 2023 evaluation data reviewed at the IEP team meeting.

Based on Findings of Facts #7 through #14, MSDE finds that the MCPS failed to use the updated assessment data to revise the November 29, 2023, IEP. The MCPS did not follow proper procedures when conducting a reevaluation of the student since November 2023, in accordance with 34 CFR §§ 300.303-.306 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #2

MEASURABLE ANNUAL IEP GOALS

Based on Findings of Fact #14 and #16, MSDE finds that the MCPS did ensure that the student's IEP in effect since September 2024 contains measurable annual goals, in accordance with 34 CFR §§ 300.320 and .323. Therefore, this office finds that a violation did not occur concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Five-Day Documentation

Each assessment, report, data chart, draft IEP, or other document that the IEP team or other multidisciplinary team plans to discuss at the meeting must be provided to the parents at least five business days before the scheduled meeting (COMAR 13A.05.01.07).

Based on Findings of Fact #1 through #6, 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 on November 29, 2023, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTION AND TIMELINE:

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 time frames below to ensure that noncompliance is corrected in a timely manner³. 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 action⁴. Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Based

MSDE requires the MCPS to provide documentation by March 31, 2025, that the IEP team has convened and determined whether the violations identified in the Letter of Findings had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact; it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

³ 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.

⁴ 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 MCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant 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 31, 2025, that it has provided professional development to [REDACTED] staff on the following:

- The proper procedure for conducting a reevaluation, including updating the IEP; and
- The provision of five-day documents.

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
Nicole Green, Compliance Specialist, MSDE
Stephanie James, Complaint Investigator, MSDE