

January 30, 2025

[REDACTED]

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

RE: [REDACTED]  
Reference: #25-159

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 December 4, 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 allegations:

1. The MCPS did not follow proper procedures when determining the student’s educational placement since May 2024, in accordance with 34 CFR §§ 300.114 - .116.
2. The MCPS has not developed an Individualized Education Program (IEP) that addresses the student’s identified speech-language and gross motor needs since December 4, 2024, in accordance with 34 CFR § 300.324. Specifically, the complainant alleges that the IEP does not include speech-language expressive language and gross motor skills goals, and the IEP goals have not been updated.
3. The MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the December 4, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

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

### **FINDINGS OF FACT:**

1. The IEP in effect in May 2024, was developed on December 6, 2023, and amended on May 9, 2024.
2. On May 9, 2024, the IEP team convened to “inform of an amendment to the IEP without a meeting.” The prior written notice (PWN) generated after the meeting reflects the IEP team met to change the dates of Extended School Year (ESY) services to the correct dates that ESY would be provided by the MCPS. The complainant agreed with the amendment and expressed her desire to have the IEP team reconvene at the beginning of the 2024-2025 school year to discuss reevaluation planning for the student.

The PWN does not reflect that a placement discussion occurred during the meeting.

3. The amended IEP reflects speech-language articulation, speech-language receptive language, and fine motor coordination among the areas affected by the student’s disability. Speech-language expressive language and gross motor skills are not listed as areas affected by the student’s disability.

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

- Speech-language articulation: “Below age expectancy;”
- Speech-language receptive language: “Below age expectancy;” and
- Fine motor coordination: “Below same age peers.”

The IEP does not include PLAAFP data for speech-language expressive language.

The IEP reflects the student’s communication is impacted by the disability. The IEP reflects “[The student] uses a combination of 4–6-word utterances and simple sign language/gestures to communicate, currently demonstrating at least a 25% delay in speech and communication. His communication needs will be addressed through his IEP goals and supplementary aids and services. [The student] is starting to use a combination of simple ASL, 4–6-word utterances when provided access to sentence stems and verbal prompts/reminders to “use your words.” [The student] will continue to benefit from access to static display speech generated communication devices and picture symbols to make requests and comment and functional communication needs will need to be considered further to see if other supports might be needed.”

The IEP requires the following IEP goals:

- Reading phonics: “Given direct whole group and small group instruction, modeling, faded adult support, tactile learning opportunities, and visual prompts, [the student] will know and apply letter sound correspondence skills in decoding words on 4 out of 5 opportunities by 12/5/2024.”
- Early learning skills – social foundations: “Given frequent, structured practice sessions, visual cues, and fading adult supports/prompts, from start to completion of activity, [the student] will engage with peers and adults to practice methods of resolving conflict - (using strategies such as requesting assistance from an adult, participating in turn-taking activities, trading materials/toys, and taking a self-regulation break.) by 12/5/2024 as measured using data collection logs/observation records in 4 of 5 observed opportunities.”
- Reading comprehension: “Given whole group instruction, appropriately leveled texts, picture support, and faded adult modeling, [the student] will ask and answer questions about a given text in order to identify presented details and main topics as measured by 4 out of 5 trials by 12/5/2024.”

- Written language expression: “Given sentence starters, whole group instruction, a variety of opportunities to demonstrate understanding, modeling, and faded adult support, [the student] will generate simple sentences in order to express his thoughts, feelings, and responses for a variety of writing opportunities on 4 out of 5 trials by 12/5/2024.”
- Early math literacy: “Given small math group instruction with visual supports as needed, [the student] will describe, represent, apply numbers or their relationships, and will estimate/compute using mental strategies, paper/pencil, or technology in order to demonstrate knowledge of quantitative concepts on 4 out of 5 trials by 12/5/2024.”
- Early learning skills – social foundations: “Given opportunities for repetition and practice, visual cues, and fading adult supports/prompts, across a variety of settings, [the student] will demonstrate self-regulation by accepting NO in response to his request and by accepting a delay in receiving what he wants while also maintaining a calm body and voice by 12/5/2024 as measured using classroom logs/data notebooks, or observation records in 4 of 5 observed opportunities.”
- Early learning skills – social foundations: “Given frequent, structured practice sessions, visual cues, and fading adult supports/prompts, from start to completion of activity, [the student] will engage with peers and adults to practice methods of initiating socially acceptable interactions by 12/5/2024 as measured using informal data collection logs in 4 of 5 observed opportunities.”
- Speech-language articulation: “By December 2024, [the student] will imitate and produce the following target sounds in isolation, in CVC and multisyllabic productions (l, k, g, f, v, s, z, sh, ch) given direct verbal, visual and tactile cues and prompts with 80% accuracy.”
- Speech-language receptive language: “By December 2024, [the student] will use multimodality communication strategies (pointing, touching pictures, use of signs/gestures) to answer [“wh”] questions and follow multi-step directions with 80% accuracy, given no more than one verbal or visual prompt.”
- Fine motor coordination: “OT [Occupational Therapy]: By December 2024, given therapeutic intervention, modeling, direct instruction and opportunities for practice, [the student] will use the fine motor skills needed for drawing, cutting and printing and interaction with manipulation tasks as needed in his classroom setting on 3 out of 4 work samples over 5 weeks, as measured by work samples and observation checklist.”

The least restrictive environment (LRE) required by the IEP reflects inside general education less than 40% of the school day. “Beginning in kindergarten FY23, the IEP team considered the [redacted] and the [redacted] as placement options for [the student’s] Kindergarten year. The IEP team completed Appendix A ALO [Alternate Academic Achievement] criteria checklist. [The student] was found eligible for participation in alternate assessments and/or alternate academic achievement standards. [The student] was determined to be eligible for ALO and determined that the LFI placement was appropriate.” The team found, “[The student’s] needs in the areas of communication/language, peer interaction, social/emotional, self-regulation, adaptive skills, fine and gross motor, and pre-academics impacts his ability to independently access the curriculum without significant adult support and direct instruction. [The student] is participating in a program that is outside the general education setting; however, he may participate with non-disabled peers during extra-curricular activities as appropriate for a preschool/kindergarten student.”

4. On November 18, 2024, the complainant sent a response email to the MCPS staff. The student’s current draft IEP “[redacted] 2024 IEP Draft”) was attached to the email and the complainant shared that it was provided by MCPS staff on November 17, 2024.

5. On November 26, 2024, the complainant emailed the MCPS staff. The email reflected that the complainant had received copies of the student's "previous testing and psychologist report from 2022." The email reflected that the 5-day disclosure notice indicated that the draft IEP would be included, but it "wasn't in the packet." The complainant requested that the draft IEP be emailed to her.
6. On November 28, 2024, MCPS staff emailed the complainant a copy of the student's updated 2024 draft IEP.
7. On December 4, 2024, the IEP team reconvened to review and discuss the student's IEP, the "parent revocation of consent for Alternate Learning Outcomes (ALO), and a plan for [the student's] re-evaluation." The PWN generated after the meeting reflects the IEP team utilized a "file review of previous psychological, educational, and speech-language assessments from March of 2022, [a] file review of previous IEP and progress reports, [a] review of first period progress reports and current present levels of academic achievement and functional performance, medical documentation, parent input, and [a] multidisciplinary team discussion" to make its determinations. The MCPS proposed to shift the purpose of the meeting from an annual review meeting to a re-evaluation meeting due to the parent's decision to "revoke consent for [the student's] participation in the Alternate Academic Achievement Framework (ALO) in writing dated 12/3/24," to allow time to revise the IEP in light of the revocation, and to plan for updated assessments in the areas of "cognition, adaptive skills, academics (reading, written language, mathematics, communication (expressive, receptive, and pragmatic) and fine motor skills."

The PWN reflects the student's parents raised concerns that the draft IEP did not contain enough updated information reflecting the student's current strengths and needs, and that the required IEP goals and objectives were not aligned to address these needs. It was reported that the student is due for re-evaluation in March 2025, and the IEP team agreed with the parents' written request to update assessments. The team agreed to submit a High Incidence Assistive Technology Team (HIAT) consultation to learn how to best support the student's access to the general education curriculum. The IEP team agreed to "follow up" with the school's physical therapist due to the parent's request to revisit physical therapy (PT) services and to include expressive language as part of the student's upcoming speech-language assessment. It was shared that if the student presented an expressive language need that warranted a goal in that area the information would be added to the student's present levels in the IEP in addition to a correlating goal and objective.

8. On December 16, 2024, the IEP reconvened to review and revise the student's IEP. The PWN generated after the meeting reflects the MCPS proposed to "review the updated draft of the IEP to reflect the [the student's] present level of academic performance which included "new data from additional sources, instruction on grade level outcomes, services in the general education setting, as well as discussion and development of a plan to support [redacted] transition to the general education setting." The PWN reflects the IEP team reviewed "updated DIBELS assessment, updated MAP-P assessment, informal reading assessment, Unique Learning System Benchmark assessments, [a] file review of previous psychological, educational, and speech-language assessments from March of 2022, [a] file review of previous IEP and progress reports, [a] review of first period progress reports and current present levels of academic achievement and functional performance, medical documentation, parent input, and [a] multidisciplinary team discussion" to make its decisions.

The PWN reflects the IEP team proposed special education services for the student and it was stated that "While assessments are underway, services will continue to be provided at [REDACTED] until the team reconvenes to review assessments, update the IEP, and revisit the services and placement discussion with representatives from all service delivery models present to participate in the discussion." It was determined that "[the student] will continue to receive services in his current service school to allow the school-based team time to collect additional data about [the student's] adjustment and performance in a grade-level general education classroom. This performance data, along with the updated assessments will help inform the IEP development and subsequent services and placement discussion."

The PWN reflects the student's parents "[accepted] the IEP "as is" before the school-based team [completed the PLAAFP review. The team] devoted the remaining time in the meeting to discuss the nature of [the student's] services and transition to the general education setting and grade level outcomes." It was noted that the parents "had reviewed the IEP and understood that the team would be reconvening in 90 days to revise with data from the updated assessments that will be done. The team agreed that the IEP would be closed "as is" and the discussion would shift to services, location, and transition plan."

The parents requested for the student to remain at [REDACTED] through the end of the 2024-2025 school year, and the school-based team agreed that the student would remain at [REDACTED] "through the evaluation period and the team would resume the services and placement discussion in 90 days during the re-evaluation determinations meeting when representatives from all potential service delivery models would be present to participate in the discussion that will be driven by the new data from updated assessments as well as informal data about [the student's] adjustment and performance in the general education setting." It was decided that due to time constraints the IEP team would uphold the parents request to revisit the Appendix A tool during the re-evaluation meeting.

9. The IEP developed at the students', December 16, 2024, IEP meeting reflects speech-language articulation, speech-language receptive language, and fine motor coordination among the areas affected by the student's disability. Speech-language expressive language and gross motor skills are not listed as areas affected by the student's disability.

The document basis for assessment decision in the IEP reflects "Parents revoked consent for Alternate Standards and Alternate Assessments in writing on 12/4/24." The IEP team has initiated the re-evaluation process on 12/4/24 to update assessments to determine [the student's] present levels of academic and functional performance as well as to respond to questions raised about [the student's] eligibility for Alternate Standards and Alternate Assessments. "The team will reconvene in 90 days to revisit eligibility and amend the IEP."

The updated PLAAFP data included in the IEP reflects that the student is performing at the following instructional grade levels:

- Speech-language articulation: "Below age expectancy;"
- Speech-language receptive language: "Below age expectancy;" and
- Fine motor coordination: "Below same age peers."

The communication data continued.

The IEP requires the following updated goals:

- Reading phonics: "Given direct whole group and small group instruction, modeling, faded adult support, tactile learning opportunities, and visual prompts, [the student] will read grade level sight words and read a grade level passage at 78 words per minute with 96% accuracy across 8 consecutive sessions by 12/15/2025."
- Self-management: "Given opportunities for repetition and practice, visual cues, and fading adult supports/prompts, across a variety of settings, [the student] will demonstrate self-regulation by accepting NO or wait in response to his request and by accepting a delay in receiving what he wants while also maintaining a calm body and indoor voice by 12/15/2025 as measured using classroom logs/data notebooks, or observation records in 4 out of 5 observed opportunities across 8 consecutive sessions."
- Reading comprehension: "Given whole group instruction, appropriately leveled texts, picture support, and faded adult modeling, [the student] will answer WH questions about a given text in order to identify presented details and main topics as measured by 4 out of 5 trials across 8 consecutive sessions by 12/15/2025."
- Written language expression: "Given sentence starters, whole group instruction, a grade level writing prompt an editing checklist and human scribe, [the student] will generate at least 3 sentences in response to the prompt that uses grade level appropriate grammar in 3 out of 4 trials across 8 consecutive sessions by 12/15/2025."
- Math Calculation: "Given small math group instruction with visual supports as needed, [the student] will describe, represent, apply numbers or their relationships, and will estimate/compute using mental strategies, paper/pencil, or technology in order to demonstrate knowledge of quantitative concepts by adding and subtracting up to 100 on 4 out of 5 trials across 8 consecutive sessions, by 12/15/2025."
- Social interaction skills: "Given frequent, structured practice sessions, visual cues, and fading adult supports/prompts, from start to completion of activity, [the student] will engage with peers and adults to practice methods of resolving conflict - (using strategies such as requesting assistance from an adult, participating in turn-taking activities while given his peer a chance to talk, trading/sharing materials/toys, and taking a self-regulation break.) by 12/15/2025 as measured using data collection logs/observation records in 4 out of 5 trials observed opportunities across 8 consecutive sessions."
- Social interaction skills: "Given frequent, structured practice sessions, visual cues, and fading adult supports/prompts, from start to completion of activity, [the student] will engage with known peers and adults to practice methods of waiting for their attention, then positively initiating socially acceptable interactions without talking over, interrupting others or asking random people by 12/15/2025 as measured using informal data collection logs in 4 out of 5 observed opportunities across 8 consecutive sessions."
- Speech-language articulation: "By December 2025, [the student] will imitate and produce the following target sounds (v, s, z, sh, ch) in isolation, in CVC words, multisyllabic productions and carrier phrases given direct verbal, visual and tactile cues with 80% accuracy."
- Speech-language receptive language: "By December 2025, [the student] will answer questions to sequence a story and answer "why" "how" wh questions with 80% accuracy, given no more than one verbal/ visual prompt."
- Fine motor coordination: "OT: By December 2025, given therapeutic intervention, modeling, direct instruction and opportunities for practice, [the student] will use the fine motor skills needed for drawing, cutting and printing and interaction with manipulation tasks as needed in his classroom setting on 3 out of 4 work samples over 5 weeks, as measured by work samples and observation checklist."

The LRE required by the IEP is inside general education 40% - 79% of the school day. The IEP reflects the team considered the placements in general education, Home School Model (HSM), Learning Center, and LFI. The team selected the HSM setting. "[The student] will be removed from the general education classroom to support his IEP goals in the areas of reading, writing, math, OT and speech-language as he works towards grade level standards. [The student] will participate with nondisabled peers throughout the remainder of his day except when he is receiving his pullout services."

10. On December 20, 2024, the student's IEP was amended to reflect updates the student's LRE. "Special Education services were recommended for Home School Model as [the student's] least restrictive environment (LRE B). [The student] will be removed from the general education setting to provide specialized instruction/focused intervention and to support his IEP goals in the areas of reading and math, as he works towards grade level standards. OT and speech-language services will also be provided outside of the general education setting. [The student] has been working towards alternate learning outcomes since his kindergarten year and requires focused time outside of the general education setting to build his knowledge and skill development towards grade level outcomes. [The student] will participate with nondisabled peers for a total of 24 hours and 20 minutes per week inside the general education setting. [The student] will spend a total of 7 hours and 45 minutes per week outside of the general education setting for direct support in reading and math as well as weekly OT and speech and language services."

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

##### **ALLEGATION #1 PLACEMENT DETERMINATION**

Based on the Findings of Fact #2 to #4, #8, and #9, MSDE finds that the MCPS has followed proper procedures when determining the student's educational placement since May 2024, in accordance with 34 CFR §§ 300.114 -.116. Therefore, this office finds no violation concerning the allegation.

##### **ALLEGATION #2 DEVELOPMENT OF THE IEP**

Based on the Findings of Fact #3, and #7 to #10, MSDE finds that the student did not have identified speech-language expressive language and gross motor needs that would require the MCPS to develop an IEP that includes speech-language expressive and gross motor skills goals, on December 4, 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds no violation concerning this aspect of the allegation.

Based on the Findings of Fact #3 and #9, MSDE finds that the MCPS developed an IEP that includes updated IEP goals since December 4, 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds no violation concerning this aspect of the allegation.

##### **ALLEGATION #3 PROVISION OF IEP DOCUMENT FIVE DAYS PRIOR TO IEP MEETING**

In this case, MCPS provided documents to the complainant. However, the updated draft IEP was sent on November 28, 2024, which was not at least five business days before the December 4, 2024, IEP team meeting.

Based on the Findings of Fact #4 to #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 at the December 4, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation concerning the allegation.

Notwithstanding the violation, based on the Finding of Fact #7, MSDE finds that the complainant participated in the IEP team meeting on December 4, 2024. Therefore, no further student specific corrective action is required.

**TIMELINES:**

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](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/ebh

c: Dr. Thomas W. Taylor, Superintendent, MCPS  
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