


February 3, 2025




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

RE:   
Reference: #25-165

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 5, 2025, 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 implemented an Individualized Education Program (IEP) that addressed the student’s identified expressive and pragmatic language needs since the start of the 2024- 2025 school year, in accordance with 34 CFR §§ 300.101 and .324.
2. The MCPS has not implemented an IEP that addressed the student’s identified social-emotional needs since December 6, 2024, in accordance with 34 CFR §§ 300.101 and .324.
3. The MCPS has not ensured that the student has been consistently provided with adult support, as required by the IEP, since December 6, 2024, in accordance with 34 CFR §§ 300.101 and .323.
4. The MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student’s educational record, specifically video footage from an October 4, 2024, incident, in accordance with 34 CFR § 300.613.

**BACKGROUND:**

The student is 15 years old and is a student with Autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education.

**FINDINGS OF FACT:**

1. The IEP in effect at the start of the 2024-2025 school year was developed on December 19, 2023. The IEP has an annual review date of December 18, 2024. The IEP reflects that speech-language expressive and pragmatics, social/emotional/behavioral, and behavior: transitional safety are areas affected by the student's disability.

The IEP requires:

- Three hours and forty-five minutes daily of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant;
- One hour and thirty minutes of instruction inside the general education setting per week to be provided by the general education teacher, special education teacher, and/or instructional assistant;
- One hour and thirty minutes per month of special education instruction outside of the general education setting to be provided by a social worker and psychologist for group counseling;
- Thirty minutes per week of speech-language services outside of the general education setting;
- Thirty minutes per quarter of occupational therapy inside of the general education setting; and
- Transportation.

The IEP requires placement in a self-contained program within a comprehensive high school.

The IEP requires the provision of Behavior Intervention Plan (BIP).

The IEP requires supplementary aids, services, and accommodations to address the student's social/emotional/behavioral needs:

- Provide frequent changes in activities or opportunities for movement, daily;
- Frequent reminders of the rules, daily;
- Reinforce positive behaviors through non-verbal/verbal communication, daily;
- Home-school communication system, weekly;
- Strategies to initiate and sustain attention, daily;
- Advance preparation for schedule changes, as needed;
- Encourage student to ask for assistance when needed, daily; and
- Access to sensory strategies (i.e.: fidgets, movement opportunities, visual timer, quieter workplace, sensor sand box), daily.

The IEP does not require adult support as a supplementary aid, service, or accommodation.

The IEP requires goals and progress towards the goal:

- Speech-language pragmatics: “By December 18, 2024, when presented with hypothetical and real-life social scenarios, [the student] will identify the problem, determine a possible solution to the problem, and identify how specific behaviors impact how others feel in 80% of opportunities given 2-3 cues and visual support as measured by observation record;”
  - November 1, 2024: Making sufficient progress to meet goal;
- Speech-language expressive: “Expressive Language: By December 18, 2024, [the student] will use multi-sensory organizational and expression tools to formulate a variety of descriptive oral summaries (i.e., object/pictured event descriptions, story summaries, retelling of personal events), consisting of at least 4 grammatically correct sentences within 80% of opportunities given 2 prompts as measured by observation record;”
  - November 1, 2024: Making sufficient progress to meet goal;
- Social/Emotional/Behavioral: focus and attentions: “By December 18, 2024, given adult support, modeling, direct instruction, reminders/prompts (verbal and non-verbal), and a visual chart, [the student] will focus his attention on instruction in 30 out of the 45 minutes in class; as measured by teacher observation and running logs in 4 out 5 trials;”
  - November 4, 2024: Not making sufficient progress to meet the goal; and
- Behavioral: transitional safety: “By December 18, 2024, given adult support, adult escort, modeling, coaching, verbal prompts, visual cues, frequent reminders, and advance notice in schedule change, [the student] will transition in between classes safely (staying with escort and communicating escort) as measured by adult check-ins and observations in 5 out of 5 trials.”
  - November 4, 2024: Newly introduced; progress not measurable at this time.

2. The BIP in effect at the start of the 2024-2025 school year was developed on May 13, 2024. The BIP reflects that a Functional Behavior Assessment (FBA) and BIP were requested by the complainant in order to gain a better understanding of the student’s behavioral profile. The BIP reflects “inappropriate vocalizations: scripting or making audible sounds with his mouth that is not related to the academic content/discussions” as the identified behavior of concern. The BIP also reflects:

- The student’s relevant history;
- Previous behavioral concerns;
- The student talents/strengths/interests;
- Behavioral patterns;
- Possible behavior function;
- Recommendations and goals:
  - “[The student] appears to benefit from walking breaks and heavy work (carrying a jug of water up and down the stairs) in order to decrease vocalizations and return his attention to instruction;
  - [The student] appears to benefit from reminders to keep his hands and feet to himself and reminders that consequences are a result of his behaviors; and
  - [The student] appears to benefit from having a peer walk with him from one location to the next, when out of the Bridge suite;”
- Alternative/Replacement Behavior: [The student] will earn time at the end of class with a preferred item/activity; and
- Desired behavior: [The student] will request shorter and/or more frequent breaks in order to increase his time on-task.

3. There is documentation that the student has been provided with speech-language services as required by the IEP, since the start of the 2024-2025 school year. The service logs reflect that the sessions addressed the student's identified expressive and pragmatic speech-language needs.
4. There is no documentation that the student has been provided with the required one hour and thirty minutes per month of special education instruction outside of the general education setting to be provided by a social worker and psychologist since December 6, 2024.
5. There is documentation that the student has been provided with the supplementary aids, services, and accommodations that address the student's speech-language expressive and pragmatic and social/emotional/behavioral needs since the start of the 2024-2025 school year.
6. There is documentation that on October 11, 2024, the complainant wrote a letter to the MCPS requesting to "view the video footage of the incident that occurred on 10/04/24. Since the footage directly pertains to [The student] as a victim, we are requesting to review the relevant segments. If privacy concerns related to other students are an issue, we ask that MCPS redact or blur other students in the video." There is documentation the MCPS allowed the complainant to view the video footage as she requested.
7. On December 17, 2024, the IEP team convened to conduct an annual IEP meeting and to discuss re-evaluation planning. The prior written notice (PWN) generated following the meeting reflects that the IEP team did not complete the meeting in the allotted time frame and the complainant agreed to continue the meeting after the winter break. There is no documentation that a revised IEP has been finalized.
8. There is an IEP team meeting notice generated for January 13, 2025.
9. The MCPS schools were closed from December 20, 2024, to January 2, 2025, for winter break. The MCPS schools were closed on January 6, 7, and 8, 2025, due to snow days.
10. The student was absent on January 3, 2025. The student was present 15 days from December 6, 2024, to the date of this investigation.

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

##### **Allegation #1                      Implementation of IEP that Addressed Identified Expressive and Pragmatic Language Needs**

Based on the Findings of Fact #1 and #3, MSDE finds that the MCPS has implemented an IEP that addressed the student's identified expressive and pragmatic language needs, since the start of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .324. Therefore, MSDE finds no violation concerning the allegation.

##### **Allegation #2                      Implementation of IEP that Addressed Identified Social-Emotional Needs**

Based on the Findings of Fact #1, #2, and #5, MSDE finds that the MCPS has implemented an IEP that addressed the student's identified social-emotional needs, specifically provision of the special education services inside the general education classroom, supplementary aids, services, and accommodations since December 6, 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, MSDE finds no violation concerning this aspect of the allegation.

Based on the Findings of Fact #1, #2, and #5, MSDE finds that the MCPS has not implemented an IEP that addressed the student's identified social- emotional needs, specifically the provision of the special education services outside of the general education classroom for group counseling, since December 6, 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, MSDE finds a violation concerning the allegation.

**Allegation #3                      Provision of Adult Support**

In this case, the IEP goals refer to the use of an adult to support the student in achieving the goals; however, the IEP does not require the student to be provided with adult support.

Based on the Finding of Fact #1, MSDE finds that the student's IEP does not require additional adult support. Therefore, the MCPS was not required to ensure that the student was consistently provided with additional adult support, since December 6, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds no violation concerning the allegation.

**Allegation #4                      Responding to a Request to Inspect and Review the Student's Educational Record**

Based on the Finding of Fact #6, MSDE finds that the MCPS did ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record, specifically video footage from an October 4, 2024, incident, in accordance with 34 CFR § 300.613. Therefore, MSDE finds no violation concerning the allegation.

**ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

**Annual Review**

A public agency shall ensure that the IEP team meets periodically, but not less than annually, to review and revise the IEP (34 CFR § 300.324).

In this case, the IEP team convened on December 17, 2024, with the purpose of conducting the annual review, however, there is documentation that they required a continuation meeting, which was scheduled to take place after the annual review date, therefore, ensuring that a finalized IEP was not developed within the required timeframe.

Based on the Findings of Fact #1, #7, and #8, MSDE finds that the MCPS has not ensured that the IEP team convened to conduct an annual review resulting in a finalized IEP on or before December 18, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred.

**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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>1</sup> 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.<sup>2</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **Student-Specific**

MSDE requires the MCPS to provide documentation by March 28, 2025, that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the violations identified in this letter and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The MCPS must ensure that the parent is provided with prior written notice of the team's decisions. The parent 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 28, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements of the IEP including, provision of special education services outside the general education classroom and for the revision of an IEP annually, 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. The written request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email [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.

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<sup>1</sup> 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, 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.

<sup>2</sup> 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/sd

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