

February 10, 2025

[REDACTED]

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

RE: [REDACTED]
Reference: #25-178

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 12, 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 following allegations:

1. The MCPS has not ensured that the student has been provided with the support, services, and accommodations required by the Individualized Education Program (IEP) since the start of the 2024- 2025 school year, in accordance with 34 CFR §§ 300.101 and .323.
2. The MCPS has not ensured that the IEP team addressed parental concerns about the lack of support, services, and accommodations the student is to receive as required by her IEP since November 2024, in accordance with 34 CFR § 300. 324.

BACKGROUND:

The student is 16 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. The student attends [REDACTED] School and has an IEP that requires the provision of special education instruction.

FINDINGS OF FACT:

1. The IEP in effect in August 2024, was developed on March 14, 2024. The March 14, 2024, IEP reflects identified needs in the areas of math calculation, math problem solving, reading comprehension, written language content, written language mechanics, attention, self-management, and social emotional/behavioral. The IEP includes IEP goals for math problem-solving, reading comprehension, written language content, and social-emotional/ behavioral.
2. The March 14, 2024, IEP reflects the student requires:
 - Four, 45-minute sessions of specialized instruction inside general education daily provided by the general education teacher, instructional assistant, or special educator to receive support in English, math, science, social studies; and
 - 45 minutes a day of specialized instruction outside of the general education classroom to receive supports in the resource room, with support provided by the special education teacher or the instructional assistant.

The Least Restrictive Environment reflects the student receives instruction in the Learning and Academics Disabilities (LAD) Program at her current school and requires extensive supports and direct instruction due to struggles with executive functioning.

The March 14, 2024, IEP reflects that the student's OHI disability due to Generalized Anxiety Disorder and Executive Dysfunction affects her executive functioning, working memory, processing speed, and organization. Additional diagnoses, including Dyslexia, Expressive Language Disorder, Disorder of Written Expression, and Mathematics Disorder, impact her phonological processing, reading comprehension, written expression, spelling, and math skills.

These challenges affect her ability to comprehend lengthy texts, follow multi-step math problems, recall and organize information in writing, retain information for tests or projects, and self-advocate. As a result, her academic success is impacted across all instructional settings, particularly in reading, writing, math, and seeking assistance when needed.

3. The IEP requires assistive technology (AT) device(s) but does not require the implementation of AT services. The student requires a calculation device to support mathematical calculation weaknesses and a word processor with spell check for writing support.
4. The March 14, 2024, IEP reflects that the student requires the following instructional and assessment accessibility features and accommodations for assessment:
 - General administration directions read aloud and clarified, due to her struggles with reading comprehension;
 - Graphic organizers for lengthier reading and writing demands, to allow the student to organize ideas and fully express her knowledge;
 - Highlighting tool to assist with reading comprehension strategies;
 - Occasional breaks or when student requests one due to anxiety and stress-producing situations;
 - Small group testing and reduced distraction to self and others.
 - Option to be pulled out to a separate and/or alternative location to complete work to reduce anxiety and stressful situations;

- Offered copies of notes and outlines to assist with comprehension and understanding of lengthier reading/texts/content;
- Calculation devices to support mathematical calculation weaknesses. Mathematical tools include a multiplication chart and a number line;
- Access to a word processor when needed to produce writing of more than one paragraph and the ability to write in test booklets. A word processor with spell-check to support in the editing process;
- Time and a half during assessments and in class for self- starting and to reduce anxiety; and
- Time and a half of extended time due to difficulty self-starting on assignments, as well as anxiety produced from assessment and testing situations.

5. The March 14, 2024, IEP reflects that the student requires the following supplementary aids, services, program modification and supports:

Instructional Supports:

- Chunking of text;
- Math visuals (e.g. formula sheets) for classroom tasks and assessments
- Encouragement to advocate for accommodations- should be given encouragement to use her accommodations during class;
- Given clarified directions and criteria of success for classroom tasks- should be given clarifications on what she needs to do on tasks/assignments to be successful in all academic settings;
- Preview academic vocabulary- should be given the opportunity to preview academic vocabulary that may be unfamiliar or new to her all subjects to help her with comprehension of new units of study;
- Frequent and/or immediate feedback- give feedback to make sure she is comprehending materials and staying on task/on topic in all academic classes;
- Sentence starters;
- Given alternative methods to demonstrate mastery- When possible, she should receive options for projects and assessments to demonstrate mastery of objectives/tasks in all academic settings;
- Remind student of resources/methods to receive extra support;
- Study guides for major assessments- should receive study guides/outlines to prepare for major assessments in academic classes;
- Read to for math assessments - when asked by student;
- Check for understanding - should receive checks for understanding to ensure she comprehends the content and to ensure she is focuses/attentive/on task in all academic subjects;
- Model thinking processes;
- Provide assistance with organization;
- Gain student attention before delivering instructions or important information;
- Provide student with a copy of student/teacher notes- Student will be provided student/teacher notes in all academic subjects;
- Monitor independent work;
- Repetition of directions; and
- Word processor for written work;

Program Modification:

- Graphic Organizers; and
- Break down assignments into smaller units- Break down assignments into smaller units with interim due dates in all academic settings.

Social/Behavioral Support:

- Advance notice when called on;
 - Strategies to reduce anxiety- should be given strategies for her to reduce anxiety (e.g.: moving to a quiet place, advance notice of assignments, relaxation exercises, visualization exercises, or focusing on sensory input [like a squeeze ball]); and
 - Flash pass to a guidance counselor or restroom- [REDACTED] will be taught how to use the Flash pass, using it when it is time to seek out the guidance counselor in order to relieve anxiety, stress, or restroom.
6. On November 22, 2024, MCPS generated a Notice of IEP Team Meeting for a meeting scheduled on December 13, 2024, to consider postsecondary goals and transition services, as well as an IEP Amendment Meeting to discuss the student's accommodations. However, the meeting was rescheduled to December 20, 2024, and then rescheduled again to January 10, 2025.
 7. On January 10, 2025, the IEP team convened at the request of the complainant to review and revise the IEP as appropriate. The Prior Written Notice (PWN) generated after the IEP meeting reflects the complainant's expressed concerns regarding the consistency of the student receiving her accommodations in the classroom setting. During the meeting, the IEP team addressed the complainant's concerns. The family requests adding a graphing calculator to the student's IEP and clarification on small group testing, allowing her to decide when to use this accommodation. The complainant reiterated that the student needs access to notes and outlines, with both digital and paper copies of assignments, and was informed that this is already in place. The IEP team also notified that the student has been permitted to use a graphing calculator since October 4, 2024, following the request from the complainant made on September 26, 2024.
 8. During the IEP meeting, the complainant requested copies of the student's writing samples and received them on January 13, 2025.
 9. The PWN reflects the IEP team proposed amending the student's IEP to reflect assignments provided in both digital and paper format and the use of a graphing calculator.
 10. The student's progress report, dated November 1, 2024, reflects that the student is "making sufficient progress to meet goals" for all her annual IEP goals.
 11. There is documentation of the complainant communicating to members of the IEP team via email throughout the school year regarding the student receiving her accommodations for assessments. However, there is no documentation of the request for an IEP meeting to address these concerns with the IEP team prior to November 2024.

12. There is documentation titled "Annual Review Teacher Report School Year 2024–2025" that outlines the supports, accommodations, and progress of the student since the start of the school year. A column of the report reflects "Never Utilizes/Refuses", however, it is unclear whether some of the accommodations are being provided to the student or if the student is not utilizing the accommodations when offered.
13. The "Annual Review Teacher Report School Year 2024–2025" reflects that the student does not have any academic concerns. The report reflects the student utilizes her accommodation as needed and often would prefer the same "assignments" as her non-disabled peers.

CONCLUSIONS:

ALLEGATION #1 PROVISION OF IEP SUPPORTS, SERVICES, AND ACCOMMODATIONS

In this case, the complainant alleges that the student has not received the required supports and accommodations in all of her academic classes, specifically in the AP Government class, due to the student not receiving additional support in that class. The "Annual Review Teacher Report School Year 2024–2025" reflects that the student "Never Utilizes/Refuses" accommodations in all of the classes on her schedule. It is unclear if the accommodations are being provided to the student or if the student is not utilizing the accommodations when offered.

Based on Findings of Fact #1, #3 through #5, #7, #9, and #10, and #12, MSDE finds that the MCPS has not ensured that the student has been provided with the support, services, and accommodations required by the IEP since the start of the 2024- 2025 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds a violation.

Notwithstanding the allegation, based on Finding of Fact #13, MSDE finds that the student was making progress and there were no concerns from the teachers. Therefore, no further student-specific corrective action is required.

ALLEGATION #2 ADDRESS PARENTAL CONCERNS

In this case, the complainant alleges that she contacted members of the IEP team several times throughout the year regarding the student receiving accommodations in her academic classes. However, the complainant did not request an IEP team meeting until November 2024. On January 10, 2025, this concern was addressed during the IEP team meeting and documented in the PWN.

Based on Findings of Fact #6 and #7, #8, #11, MSDE finds that the MCPS has ensured that the IEP team addressed parental concerns about the lack of support, services, and accommodations the student is to receive as required by her IEP since November 2024, in accordance with 34 CFR § 300. 324. Therefore, MSDE does not find a violation.

CORRECTIVE ACTIONS AND TIMELINES:

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 timeframes below to ensure that noncompliance is corrected in a timely manner.¹ 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 action². Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

School-Based

MSDE requires MCPS to provide documentation by April 30, 2025, that the teachers at [REDACTED] have reviewed and analyzed the documents used to collect data on students with IEPs who require accommodations. This analysis must ensure that the documents accurately reflect whether an accommodation is not being offered, not needed, or if the student is refusing the accommodation provided.

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. Requests for reconsideration must be sent to Tracy Givens, Section Chief, Dispute Resolution Branch, 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.

¹ 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.

² 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/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], [REDACTED], Principal, MCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
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