


February 20, 2025




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

Re: 
Reference: #25-190

Dear Parties:

The Maryland State Department of Education (MSDE), and 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 19, 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 School (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The MCPS did not follow proper procedures when conducting a reevaluation since December 18, 2023, in accordance with 34 CFR §§ 300.303- .306.
2. The MCPS has not ensured that the student is being provided with the special education classroom instruction and speech-language services, required by the Individualized Education Program (IEP), since December 18, 2023, in accordance with 34 CFR §§ 300.101 and .323.
3. The MCPS has not ensured that the student’s IEP includes annual goals designed to enable the student to progress in the general education curriculum, and which are based on the student’s present levels of performance, since December 18, 2023, in accordance with 34 CFR §§ 300.320 and .324.
4. The MCPS has not ensured that the student’s progress towards achievement of the annual goals was measured as described in the IEP, since December 18, 2023, in accordance with 34 CFR §§ 300.101 and .324.
5. The MCPS did not provide a copy of the IEP document within five business days after the IEP team meeting held on May 29, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.

6. The MCPS did not provide prior written notice of the IEP team's decisions from the IEP team meeting held on May 29, 2024, in accordance with 34 CFR § 300.503.

BACKGROUND:

The student is 14 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.

ALLEGATIONS #1, #2, #3, and #4

PROPER PROCEDURES FOR CONDUCTING A RE-EVALUATION OF THE STUDENT, PROVISION OF SPECIAL EDUCATION INSTRUCTION PROVISION OF SPEECH-LANGUAGE SERVICES, MEASURABLE IEP GOALS, AND REPORTING OF PROGRESS

FINDINGS OF FACT:

1. The Notice and Consent for assessment generated on March 6, 2024, reflects the IEP team proposed to evaluate the student's intellectual/cognitive functioning, for the purpose of determining the present level of academic achievement and development of needs.
2. The IEP in effect in December 2023 was developed on March 30, 2023, and reflects the most recent evaluation date as October 10, 2021. The IEP reflects the following areas are impacted by disability: math problem solving, reading comprehension, speech-language expressive and receptive language, written language content, and social interaction skills.

The IEP includes 2 hours and 15 minutes per day of special education instruction inside the general education setting to be provided by the special education teacher and/or instructional assistant. The IEP requires 3 hours per day of special education instruction outside the general education setting to be provided by the special education teacher and/or instructional assistant.

The IEP includes 2 hours and 15 minutes per month of speech-language as a related service outside of the general education setting.

The IEP includes the following math problem-solving goal: "By March 29, 2024, given a calculator, guided practice, modeling, manipulatives, opportunities for practice, checks for understanding and fading teacher support, [the student] will solve real-world mathematical word problems that demonstrate knowledge of real and complex number systems, geometry, and statistics/probability (work samples in 4/5 trials)."

- The method of measurement is informal procedures: work samples.
- The criterion for retention is four out of five trials. There is no criterion for mastery.

The IEP includes the following reading comprehension goal: "By March 29, 2024, given small group support, graphic organizers, modeling, faded verbal cues, sentence starters and adult support, [Student] will demonstrate comprehension of reading passages by answering questions that identify the main idea and textual evidence that supports the main idea (work samples in 4/5 trials)."

- The method of measurement is informal procedures: work samples.
- The criterion for retention is on four out of five trials. There is no criterion for mastery.

The IEP includes the following speech-language receptive language goal: "By March 2024, [the student] will demonstrate understanding of classroom material that includes abstract concepts, vocabulary and non-literal language with no more than 1 cue."

- The method of measurement is observation record.
- The criterion for mastery is on four out of five trials.

The IEP includes the following speech-language expressive language goal: "By March 2024, [the student] will summarize classroom text material - fiction and non-fiction- of up to 4 paragraphs in length and will include specific vocabulary and details."

- The method of measurement is observation record.
- The criterion for retention is on four out of five trials. There is no criterion for mastery.

The IEP includes the following written language content goal: "By March 29, 2024, given graphic organizers, small group instruction, sentence starters/frames, graphic organizer, modeling, writing and editing checklists, repetition and practice, [Student] will write informative/explanatory, narrative and opinion texts with individual topic sentences that include at least two supporting details, per topic sentence (work samples in 4/5 trials)."

- The method of measurement is observation record.
- The criterion for retention is on four out of five trials. There is no criterion for mastery.

The IEP includes the following social interaction's goal: "By March 29, 2024, given visual and verbal reminders, fading prompts, modeling, positive feedback, opportunities for practice, [the student] will demonstrate self-advocacy skills in order to communicate wants and needs in the classroom (teacher observations)."

- The method of measurement is informal procedures: work samples.
- The criterion for mastery is on four out of five trials.
- This method of measurement is not appropriate for the goal that requires teacher observations and the behavior of self-advocacy.

3. The IEP developed on June 5, 2024, reflects that the student was re-evaluated on June 5, 2024. The IEP reflects the following areas that are impacted by disability: math problem-solving, reading comprehension, speech-language expressive and receptive language, written language content, and social interaction skills.

The IEP requires 2 hours and 15 minutes per day of special education instruction inside the general education setting to be provided by the special education teacher and/or instructional assistant. The IEP requires 3 hours per day of special education instruction outside the general education setting to be provided by the general education teacher, special education teacher and/or instructional assistant.

The IEP requires 2 hours and 15 minutes per month of speech-language as a related service outside of the general education setting.

The IEP includes the following math problem-solving goal: "By June 4, 2025, given a calculator, guided practice, modeling, manipulatives, opportunities for practice, checks for understanding, and fading teacher support, [Student] will solve multi-step algebraic problems (work samples in 4/5 trials)."

- The method of measurement is informal procedures: work samples.
- The criterion for retention is four out of five trials. There is no criterion for mastery.

The IEP includes the following reading comprehension goal: "By June 4, 2024, given small group support, graphic organizers, modeling, faded verbal cues, sentence starters and adult support, [the student] will identify the theme of reading passages and use textual evidence to support his claims (work samples in 4/5 trials)."

- The method of measurement is informal procedures: work samples.
- The criterion for retention is four out of five trials. There is no criterion for mastery.

The IEP includes the following speech-language expressive language goal: "By June 2025, [the student] will summarize classroom text material - fiction and nonfiction- of up to 4 paragraphs in length and will include specific vocabulary and details."

- The method of measurement is observation record.
- The criterion for retention is four out of five trials. There is no criterion for mastery.

The IEP includes the following speech-language receptive language goal: "By June 4, 2025, [the student] will demonstrate understanding of classroom material that includes abstract concepts, vocabulary, and non-literal language with no more than 1 cue."

- The method of measurement is observation record.
- The criterion for retention is four out of five trials. There is no criterion for mastery.

The IEP includes the following written language content goal: "By June 4, 2025, given graphic organizers, small group instruction, sentence starters/frames, graphic organizer, modeling, writing and editing checklists, repetition, and practice, [the student] will write informative/explanatory, narrative, and opinion texts with an individual thesis statement that includes at least two quotes (work samples in 4/5 trials).

- The method of measurement is informal procedures: work samples.
- The criterion for retention is four out of five trials. There is no criterion for mastery.

The IEP requires the following social interaction's goal: "By June 4, 2025, given visual and verbal reminders, fading prompts, modeling, positive feedback, opportunities for practice, [the student] will demonstrate self-advocacy skills in order to communicate wants and needs in the classroom (teacher observations)."

- The method of measurement is informal procedures: work samples.
- The criterion for mastery is four out of five trials.
- This method of measurement is not appropriate for the goal that requires teacher observations and the behavior of self-advocacy.

4. There is no documentation that the student has needs that are not addressed by the IEP.
5. There is documentation that the student is being provided with the special education classroom instruction required by the IEP, since December 18, 2023.
6. While there is documentation that the student received speech-language services since December 2023, there is no documentation that the student was provided with speech-language services as required by the IEP from December 2023 through June 2024.

There is documentation that the student is being provided with speech-language services as required by the IEP since the beginning of the 2024-2025 school year.

7. While the IEP developed on June 4, 2024, reflects an updated re-evaluation date of June 4, 2024, there is no documentation that the IEP team convened to determine the student's continued eligibility. There is no documentation that the prior written notice (PWN) was developed following this meeting.
8. While there is some documentation that the student's progress was measured, there is no documentation that the student's progress towards achievement of annual goals was consistently measured as required by the IEP since December 18, 2023.
9. The student's report of progress reflects the speech-language receptive language goal, was achieved on April 9, 2024. However, the IEP developed on June 4, 2024, continues to require implementation of the same goal. The MCPS provided no documentation of their practice regarding continued implementation of annual goals that have been achieved.

CONCLUSIONS:

Re-evaluation

In this case, the IEP team agreed to evaluate for the purpose of determining the present level of academic achievement and development of needs. There is no documentation that the team reviewed the evaluation. Additionally, there is no documentation that the team considered the intellectual/cognitive functioning assessment as part of the student's triennial review.

Based on Findings of Fact #1, #2, #6, and #7, MSDE finds that the MCPS did not follow proper procedures when conducting a reevaluation since December 18, 2023, in accordance with 34 CFR §§ 300.303 -.306. Therefore, MSDE finds a violation.

Provision of Special Education Classroom Instruction and Speech-Language Services

Based on Findings of Fact #2, #3, and #5, MSDE finds that the MCPS has ensured that the student is being provided with the special education classroom instruction, required by the IEP, since December 18, 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE does not find a violation.

Based on Findings of Fact #2, #3, and #6, MSDE finds that the MCPS has not ensured that the student was provided with speech-language services, required by the IEP, from December 18, 2023, through June 2024 in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds a violation.

Based on Findings of Fact #2, #3, and #6, MSDE finds that the MCPS has ensured that the student is being provided with speech-language services, required by the IEP, since the beginning of the 2024-2025 school year in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE does not find a violation.

Measurable IEP Goals

Based on Findings of Fact #2 and #3, MSDE finds that the MCPS (with the exception below) has not ensured that the student's IEP includes annual goals designed to enable the student to progress in the general education curriculum, and which are based on the student's present levels of performance, since December 18, 2023, in accordance with 34 CFR §§ 300.320, and .324. Therefore, MSDE finds a violation.

The goals do not include the criteria for mastery (accuracy, decrease or increase, percentage, score on a rubric) of the skills being acquired, as required by the MOIEP Process Guide and the MOIEP itself.

Based on Findings of Fact # 2, #3, and #9, MSDE finds that the MCPS has not ensured that the student's IEP includes speech-language receptive language annual goals designed to enable the student to progress in the general education curriculum, and which are based on the student's present levels of performance, since June 4, 2024, in accordance with 34 CFR §§ 300.320, and .324. Therefore, MSDE finds a violation.

Reporting of Progress

Based on Findings of Fact #2, #3, and #8, MSDE finds that the MCPS has not ensured that the student's progress towards achievement of the annual goals was measured as described in the IEP since December 18, 2023, in accordance with 34 CFR §§ 300.101 and .324. Therefore, MSDE finds a violation.

ALLEGATIONS #5 and #6

FINDINGS OF FACT:

PROVISION OF IEP DOCUMENT FIVE DAYS AFTER AN IEP MEETING AND PROVISION OF PWN

10. There is no documentation to support the complainant's allegation that an IEP team meeting occurred on May 24, 2024.

CONCLUSION:

Five-day Documents after IEP Team Meeting

Based on Finding of Fact #10, MSDE finds that an IEP meeting did not occur on May 29, 2024. As a result, the MCPS was not required to provide a copy of the IEP document in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, MSDE does not find a violation.

Provision of PWN

Based on Finding of Fact #7, MSDE finds that MCPS did not provide the PWN of the IEP team's decisions from the IEP team meeting held on June 5, 2024, in accordance with 34 CFR § 300.503.

Based on Finding of Fact #10, MSDE finds that an IEP meeting did not occur on May 29, 2024. As a result, the MCPS was not required to provide the PWN of the IEP team's decisions from the IEP team meeting held on May 29, 2024, in accordance with 34 CFR § 300.503. 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 action.² Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the MCPS to provide documentation, by May 1, 2025, that the IEP team has taken the following actions:

- a. Convened and IEP team meeting to complete the re-evaluation process and review and revise the speech-language goals;
- b. Ensured that IEP progress is measured as required;
- c. Ensured that the student's goals are current and appropriately revised to include criteria for mastery of the skills being acquired;
- d. Ensured that the student's IEP is accurate with respect to the hours of service being provided; and
- e. Provide documentation that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the failure to provide special education instruction, and speech-language services, 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

By May 1, 2025, MSDE requires the MCPS to provide documentation that professional development has been provided to the staff at [REDACTED] on the proper development of goals and objectives, progress reports, ensuring accuracy in documenting service hours, documenting the provision of services, reevaluation procedures, and proper procedures to follow when goals have been achieved.

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 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 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.

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.

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.

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/ra

c: Dr. Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, Office of Special Education, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], Principal, [REDACTED], MCPS
[REDACTED], Principal, [REDACTED], MCPS
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE