


February 20, 2025




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

RE: 
Reference: #25-197

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 23, 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 has not ensured that the Individualized Education Program (IEP) team addressed the parent’s concerns regarding the student’s special education instruction and related services since December 2023, in accordance with 34 CFR § 300.324.
2. The MCPS has not developed an IEP that addresses the student’s identified occupational therapy (OT) and speech-language needs since July 2024, in accordance with 34 CFR § 300.324.

BACKGROUND:

The student is 15 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. The student attends  and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On March 13, 2024, the IEP team convened to conduct the student's annual review. The prior written notice (PWN) generated after the meeting reflects the IEP team considered the student's educational record, curriculum measures, report card grades, MAP scores, teacher reports, classroom observation and input from the complainant and advocate in making its decisions.

The IEP team discussed the student's present levels of performance and the feedback provided by the complainant and her advocate. After this discussion, the team agreed to schedule a re-evaluation planning meeting for the student and the advocate shared that she would share her information regarding the draft IEP electronically. The team agreed to "table the annual review discussion," send an updated draft IEP home, and then reconvene on April 23, 2024, to conduct the annual review and reevaluation planning. The PWN reflects the school-based team reported that this date would be after the annual review date required by the IEP and the complainant "stated verbally that she agreed with extending the deadline."

2. On April 23, 2024, the IEP team reconvened to continue the student's annual review and re-evaluation planning. The PWN generated after the meeting reflects the IEP team considered the student's educational record, MAP scores, quarter grades, quarterly progress reports, teacher reports and input from the complainant and family advocate in making its decisions.

The OT reported that the student can consistently write legibly; type and write at a functional pace. There were no fine motor needs reported. The student's teachers reported that the student's work is legible but can become sloppy if he rushes. It was also reported that the student can read his own writing when he writes quickly. The complainant disagreed. The team agreed to add the provision of a response time to the student's supplementary aids, and the current OT services were continued.

The team agreed to implement the student's April 23, 2024, IEP, which included updating the present levels of performance data, the speech-language goals, the frequency, and duration of certain supplementary aids to "as needed," as well as the reading comprehension goal and objective. The IEP team proposed to conduct a cognitive, educational (with formal writing samples), behavior rating scales (attention and executive functioning), speech-language (receptive, expressive, pragmatics, and articulation), and OT assessments "to identify [the student's] patterns of strength and need and program for 9th grade in high school."

3. On May 20, 2024, an "Occupational Therapy (OT) Reevaluation Report" was developed for the student. The report includes a review of the student's current OT services, a "review of Online File, teacher feedback, individual testing, clinical observations, and a student report." The assessment tool used was the DeCoste Writing Protocol. The report summary reflects "additional cognitive processing required to address words with unfamiliar spelling, a tendency to rush through work and a habit of overwriting rather than correctly correcting errors" negatively impact the legibility of the student's writing. "Five of six teachers note that they can routinely read his longer pieces more than 80% of the time," and the student reported that he and his teachers are able to read his writing, and he is provided the accommodation of keyboarding to support "hand pain when he is attempting to work quickly" and to support all written work. The report reflects the student does not require OT services.

4. On June 10, 2024, a “speech-language re-assessment” report was developed for an assessment that occurred on May 21, 28, and 31, 2024. The assessment included a classroom observation, the Comprehensive Assessment of Spoken Language-Second Edition (CASL-2), the Oral Passage Understanding Scale (OPUS), the Clinical Evaluation of Language Fundamentals (CELF) –5th Edition Metalinguistics (Ages 9-21), the CELF– 5th Edition Pragmatics Profile , the Arizona Articulation and Phonology Scale – Fourth Revision, and teacher reports. The report summary reflects the student “presented with strengths across all receptive and expressive language areas assessed...supralinguistic skills...pragmatic language, and articulation and overall intelligibility.” It was also stated that the student “presented with age-appropriate length and complexity of utterance during narrative and conversational language samples.” The student’s oral communication skills were determined to be “remediated and... sufficient to support effective oral communication in the classroom setting” and “he no longer demonstrates an educational disability in the area of speech-language impairment impacting his ability to participate in or access the general education curriculum.” The report states “any area of language concern can be addressed adequately through supplementary aids and services within the general education setting.
5. On July 16, 2024, the MCPS staff emailed the complainant a meeting link for a July 23, 2024, “determinations and high school transition” meeting for the student. The email included a copy of the student’s cognitive evaluations, educational evaluation, OT evaluation and teacher feedback, speech evaluation, and draft IEP amendment.
6. On July 23, 2024, the IEP team reconvened to review the reevaluation assessment reports and amend the IEP. The PWN reflects the team considered “the new evaluations (psychological, educational, speech-language and OT), report card grades, MAP scores, teacher reports, classroom observation and parental input” in making its determinations.

It was reported that the complainant disagreed with the psychological assessment rating scales completed by the student’s reading intervention teacher because “none of the behaviors in the teacher’s rating scales have been observed in school in the past three years...The MCPS psychologist agreed to interview the teacher in late August when teachers return from summer break and write an addendum to the report.”

After reviewing the psychological, educational, speech-language, and OT assessments the team agreed that the student continued to qualify for special education with the primary disability code of OHI due to his attention deficit hyperactivity disorder (ADHD).

The speech-language pathologist (SLP) reported that “based on teacher reports, student interview, classroom observation as well as performance on formal and informal standardized measures... [the student’s] oral communication skills have been remediated and are sufficient to support effective oral communication in the classroom setting. He no longer demonstrates an educational disability in the area of speech-language impairment impacting his ability to participate in or access the general education curriculum. Any area of language concern can be addressed adequately through supplementary aids and services within the general education setting.”

The OT reported that all of the student’s teachers reported that “[the student] can produce legible handwritten responses of 2 sentences or fewer with at least 80% consistency; five of six said that he can produce legible longer responses with 80% or greater consistency” and the student can read his own handwriting but “rushing or overwriting have negatively impacted his handwriting.” It was reported that the student’s handwriting and keyboarding speeds were age appropriate and “all

teachers reported that he can use keyboarding to produce effective written responses.” The student shared that he preferred keyboarding “because of speed and access to functionality such as spell check and grammar check.” The OT did not report any identified needs that required school-based OT intervention but supported including the supplementary aid and service of keyboarding for both long and short responses at student discretion in the IEP. The complainant disagreed with the suggestion that the student can read his own handwriting and that it is legible to teachers. The complainant requested OT services be provided to improve the student’s handwriting, and it was reported that “[the student] has been documented to have sufficient fine motor skills to participate in his school curriculum. With parental dissent, the team agreed to discharge [the student] from occupational therapy service at this time.”

7. The amended IEP generated at the July 23, 2024, IEP meeting reflects the student’s primary disability as OHI, with math problem solving, reading comprehension, self-advocacy, written language expression, written language mechanics, and attention/organization as the areas affected by the student’s disability.

The present level of academic achievement and functional performance (PLAAFP) data reflects that in the area of speech-language articulation, receptive language, expressive language, and pragmatics the student is performing at age level expectations. In the area of fine motor, the student was noted as meeting age expectations. The IEP reflects the student’s communication is not impacted by the disability, and the student requires an assistive technology (AT) device, but not AT services.

The IEP requires the following instructional and testing accommodations:

- Spell check or external spell check device;
- Text to speech for the mathematics, science, and government assessments;
- Notes and outlines; and
- Assistive technology.

The IEP requires the following supplementary aids, services, program modifications, and supports:

- As needed:
 - Provide visual/written copies of orally presented information that he is required to answer comprehension questions about.
- Daily:
 - Access to keyboarding for responses longer than 2 sentences;
 - Monitor the student’s ability to write and complete math problems and equations;
 - Provide criteria for success/checklists for extended written assignments;
 - Provide verbal model of grammatically correct sentences when appropriate;
 - Provide text-to-speech or human reader; and
 - Allow oral rehearsal prior to writing.

The IEP requires the following IEP goals:

- Written language mechanics: “By April 2025, given adult support, small group opportunities, models, spell check on Chromebook, checklists, and feedback, [the student] will edit and revise his written work, as measured by a score of 80% or higher on at least five assignments.”

8. On September 6, 2024, the student’s case manager emailed the complainant sharing that she gave the student a copy of his IEP to discuss any questions that he had, asked him to include her on his emails with his teachers so that she could “keep track of making sure he was getting his accommodations,” and discussed the annual review process with the student.

9. On September 24, 2024, the complainant emailed the student's case manager requesting that she ensure the student receives a study guide for each class per his IEP.
10. On September 25, 2024, the student's case manager emailed the complainant asking if there was "a specific class that [the student] is not receiving adequate support" or if the complainant wanted a "check-in" for all his classes. The case manager shared that she had looked through the student's IEP and "did not specifically see anything about a study guide." It was suggested that the student contact his teachers to continue working on self-advocacy with her support. The email showed the student was passing all his classes with A's and B's.
11. On November 19, 2024, the complainant's advocate emailed the MCPS staff expressing concerns regarding the consistent provision of IEP accommodations for the student.
12. On November 20, 2024, the MCPS staff emailed the complainant's advocate sharing that an IEP meeting would be scheduled as soon as possible.
13. On November 26, 2024, the MCPS staff emailed the complainant sharing that the student's annual review was scheduled for December 11, 2024. The email included the required 10-day documents and meeting invitation. On that same day, the complainant emailed the MCPS staff sharing that the date and time did not work and requested other date options.
14. On December 2, 2024, the MCPS staff emailed the complainant two alternate IEP meeting dates. That same day, the complainant accepted the meeting date of January 2, 2025.
15. On December 11, 2024, the MCPS staff emailed the complainant an updated meeting invitation, and requested that she refer to "the original email" for the other 10-day documents.
16. On January 2, 2025, the IEP team reconvened. The PWN generated after the meeting reflects the IEP team considered "teacher reports, gradebook data, and MAP scores" to make its determinations. "The parental report [was] not returned." MCPS "attempted to propose the IEP developed and sent out on 12/29/2025" to continue to support the student. The family advocate "stopped the meeting due to inadequate data and rejected the proposals outlined in the draft."
17. On January 10, 2025, the complainant's advocate emailed the MCPS staff sharing her concerns with the student's draft IEP.
18. On January 10, 2024, the MCPS staff emailed the complainant attaching "all teacher reports" and an updated draft IEP. The staff member apologized for the delayed email due to inclement weather.
19. On January 14, 2025, the complainant's advocate emailed the MCPS staff sharing concerns about the teacher reports submitted to the IEP team. The MCPS staff responded to the advocate's concerns.
20. On January 14, 2025, the MCPS staff emailed the complainant's advocate sharing that a request was made for the student's teachers to be assisted with completing the teacher reports. The staff member also asked if the complainant would like to postpone the meeting while waiting for the reports or continue as scheduled.

21. On January 14, 2025, the complainant's advocate emailed the MCPS staff member sharing that it did not make sense to meet without the reports as they "must be used when developing present levels, goals, and objectives. The email reflects that it "might be a good idea" to meet to address "those concerns and reconvene again when we have completed reports."
22. On January 14, 2025, the MCPS staff emailed the student's IEP team sharing that the upcoming IEP meeting had been canceled "while waiting for updated teacher reports."
23. On January 14, 2025, the MCPS staff emailed the complainant sharing that a staff member was working with teachers to obtain the reports and shared that specific questions should be addressed to the specific teacher.
24. On January 14, 2025, the complainant's advocate emailed the MCPS staff sharing that the family was not requesting to "cancel or postpone" the upcoming meeting and it was "critical that the meeting proceed as scheduled." The email shares the "delays in obtaining teacher reports does not justify postponing the meeting." The email explained that the complainant "does not want a parent-teacher conference" as suggested in the email and requested that the specified teacher attend the IEP meeting.
25. On January 15, 2025, the MCPS staff emailed the complainant and the advocate sharing that the meeting was rescheduled "according to [the] original response on 1/14" and an alternate date would be determined as soon as possible once all the teacher reports were completed.
26. On January 15, 2025, the complainant's advocate emailed the MCPS staff sharing her frustration that her words had been "taken out of context" and the meeting was canceled. The advocate requested new dates for the meeting.
27. On January 15, 2025, the complainant emailed her advocate and the MCPS staff sharing her concerns that an IEP meeting scheduled for January 14, 2025, was canceled without her consent.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

ADDRESSING PARENT CONCERNS

Based on Findings of Fact #1 to #27, MSDE finds that the MCPS has ensured that the IEP team addressed the parent's concerns regarding the student's special education instruction and related services since December 2023, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

ALLEGATION #2

IEP THAT ADDRESS THE STUDENT'S NEEDS

Based on Findings of Fact #3, #4, #6, and #7, MSDE finds that the MCPS has developed an IEP that addresses the student's identified occupational therapy and speech-language needs since July 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

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 student's IEP was required to be reviewed by March 16, 2024, however, at the March 13, 2024, IEP meeting the team did not complete the annual review. The student's annual review was not completed until April 23, 2024.

Based on Findings of Fact #1 and #2, MSDE finds that the MCPS did not ensure that the IEP team convened to review the student's IEP before March 16, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324 Therefore, MSDE finds a violation.

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. 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.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 Branch, 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

By April 21, 2025, MSDE requires the MCPS to provide documentation that the IEP team has convened and determined whether the violation related to the annual review 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.

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.

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

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.

School-Based

MSDE requires the MCPS to provide documentation by April 21, 2025, of an internal monitoring of 20 student randomly selected IEPs at [REDACTED] to determine whether they were reviewed annually. One hundred percent compliance is required.

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. 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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Dr. Peggy Pugh, Chief Academic Officer, MCPS
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