

February 28, 2025



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

RE: [REDACTED]
Reference: #25-200

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 30, 2024, MSDE received a complaint from [REDACTED] and [REDACTED], hereafter, “the complainants,” 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 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 occupational therapy (OT), speech-language: pragmatics, expressive and receptive, behavior, reading comprehension, math, written language fluency, and executive functioning needs since January 2024, in accordance with 34 CFR § 300.324.
3. The MCPS has not ensured the IEP contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance since the start of the 2024-2025 school year, in accordance with 34 CFR § 300.320.
4. The MCPS has not ensured that the student was provided with the special education, supplementary aids, services, and accommodations as required by the IEP since the start of the 2024- 2025 school year, in accordance with 34 CFR §§ 300.101 and .323.

5. The MCPS has not ensured the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the IEP goals, since October 2024, in accordance with 34 CFR § 300.324.
6. The MCPS has not ensured the student's progress towards achievement of the annual IEP goals was measured as required by the IEP during the 2024- 2025 school year, in accordance with 34 CFR §§ 300.101 and .324.
7. The MCPS has not ensured the IEP team addressed the parent's concerns regarding the need for a functional behavior assessment (FBA) and speech-language evaluation since January 2024, in accordance with 34 CFR § 300.324.

BACKGROUND:

The student is 12 years old and is identified as a student with autism under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On January 10, 2024, the IEP team convened to address the complainants' concerns. The prior written notice (PWN) generated after the meeting reflects that the complainants sent an email to the MCPS asking the following questions and raising the following concerns:
 - "Has [the student's] IQ [intelligence quotient] been tested and if so, what did the testing show?
 - If IQ testing hasn't been performed, we would like to formally request it, including testing for dyscalculia.
 - Has [the student] had testing or evaluation for pragmatic language and if so, what did the testing show?
 - If pragmatic testing hasn't been done, we would like to formally request it.
 - We would also like to request a functional behavioral analysis related to his social-emotional skills and needs.
 - We would like to request that the Central Office observe [the student] in the classroom and provide overall recommendations.
 - We would also like to pursue [the student] attending the "Autism Resources Program" in middle school next year and would like to have the Central Office be involved in discussing that program."

The PWN reflects that the IEP team agreed to assess in the areas of psychological: IQ, observation, rating scales: attention/executive functioning, educational, and an updated status report from OT. In addition, the IEP team agreed that completing evaluations would help to drive the discussion and decision process on what placement would be appropriate for middle school transition.

In addition, the PWN reflects that the IEP team considered pragmatic testing, and a functional behavior analysis related to social-emotional skills and needs but based on the IEP team's discussion determined there was no evidence that the student presented with educational impact in these areas.

2. The student's IEP developed on January 10, 2024, reflects math calculation, reading comprehension, reading phonics, written language content, behavioral: organization, behavioral: self-management, behavioral: social interaction skills, and fine motor skills as areas impacted by the student's disability.

The present levels of academic achievement and functional performance (PLAAFP) reflect:

- Math calculation: The student participates in math intervention using the Eureka Math curriculum and iReady math. During intervention, the student continues to work on skills such as addition with composing, subtraction with decomposing, and place value. The student continues to also use a calculator and multiplication chart to support his calculations. When practicing math problem solving, the student benefits from teacher modeling for the use of space on his paper, is beginning to follow along with note taking and recording strategies on his whiteboard, the student continues to work on organization of supplies, independent application of math strategies, asking questions, fluency with basic facts, and spatial awareness when using a worksheet/template/journal;
 - Level of performance: 2nd- 3rd grade;
- Reading comprehension: The student's comprehension is often dependent on his attention to the text. When attending to grade level text that is read in class (read aloud by the teacher or read independently), and given teacher scaffolding and discussion, the student is able to comprehend at grade level the student has a strong retention of information taken from the text, specifically when there is class discussion and scaffolding of the text as it is taught. The student continues to benefit from prompting to go back into the text to find details and evidence to support his responses to text questions;
 - Level of performance: 3rd- 4th grade;
- Organization: "[The student] is able to initiate and complete regular classroom routines given natural supports in his classroom environment such as cues from watching peers doing their routines and directions and prompting that the whole class is receiving from the teacher. [The student] benefits from support in organizing his desk and folders; he works with his teacher to clean out and organize his desk."
 - Level of performance: below age expectation;
- Self-management: The student can be distracted by the typical happenings of the classroom. The student requires verbal redirection back to task throughout the day, to remain in his seat or assigned area, to raise his hand and not call out in class. The student requires teacher support to begin independent tasks.
 - Level of performance: below age expectation;
- Social interaction skills: The student wants to be a part of his classroom community. The student needs reminders to maintain personal space with preferred peers. The student wants to understand what is going on around him and the reasons behind events and interactions that impact him.
 - Level of performance: below age expectation;
- Fine motor: The student needs continued practice with foundational typing skills.
 - Level of performance: below age expectations.

The IEP includes assistive technology (AT) so that the student has access to text-to-speech and speech-to-text programs in order to access grade level curriculum, instruction, and tasks.

The IEP requires supplementary aids, services, and accommodations to address his math calculation, reading comprehension, behavioral: organization, behavioral: self-management, behavioral: social interaction skills, and fine motor skills needs.

The IEP includes the following goals:

- Math calculation: "Given guided instruction, models, small group instruction and practice, and calculation device as appropriate, [the student] will integrate ideas about place value, patterns, and properties to demonstrate fluency with whole number operations (addition, subtraction, multiplication, division) to solve problems," with 80% accuracy. This goal does not include criteria for retention.
- Reading comprehension: "Given a text, introduction to the text, scaffolding as needed, and teacher-led discussion, [the student] will demonstrate comprehension of literature and informational texts," on four out of five trials. This goal does not include criteria for accuracy.
- Behavioral: organization: "Given verbal reminders, modeling, and checklists as necessary, [the student] will keep his materials and assignments organized," on three out of four trials.
- Behavioral: self-management: "Given teacher modeling, peer role models, and prompting, [the student] will demonstrate increased self-regulation when attending to small/large group instructional lessons and independent tasks," on four out of five trials. This goal does not include criteria for mastery.
- Behavioral: social interaction skills: "Given verbal prompts and modeling, [the student] will interact appropriately and cooperatively with other members of a group in academic and non-academic settings," on three out of four trials. This goal cannot be measured. There is no description for "appropriate and cooperative," and no criteria for mastery.
- Fine motor skills: "[The student] will utilize his visual and fine motor skills and strategies for the successful initiation and completion of writing assignments/tasks with or without the use of technology, to increase the accuracy of written output," on three out of four trials. The behavior this goal is measuring is unclear. It is not clear whether this goal is measuring initiation and completion of a writing assignment or increased accuracy of written output, or both. There is no criteria for mastery or success on this goal for either behavior.

The IEP required:

- Five sessions of three hours and 30 minutes weekly of special education instruction in the general education classroom to address the IEP goals; and
 - Three sessions of 30 minutes monthly of OT.
3. On April 11, 2024, the IEP team convened for the annual review. The PWN generated following the meeting reflects that the IEP team updated the IEP to reflect the student's needs: reading comprehension, math calculation, written language content, social interaction skills, and self-management. The PWN reflects that the student no longer needs an organization goal, as this need can be supported with supplementary aids.
 4. The student's IEP developed on April 11, 2024, reflects math calculation, reading comprehension, written language content, behavioral: self-management, behavioral: social interaction skills, and fine motor skills as areas impacted by the student's disability.

The PLAAFP reflects:

- Math calculation: WJ-IV and MAP-R data are reflected; When the student is given more complex number patterns that require multiple steps, the student is unable to correctly answer. The student also struggles with understanding what steps and what information he needs to use when working through word problems. The student does not have an understanding of money;
 - Level of performance: Early 3rd grade;
- Reading comprehension: WJ-IV and MAP-R data are reflected; The student requires guidance and prompting to assure that he is attending to the text and listening/reading for a particular answer. The student works best in a small group setting to analyze a text and form an answer for follow up questions. When working independently the student is not always able to retain details from the text;
 - Level of performance: 4th grade;
- Written language content: WJ-IV and teacher data/samples are reflected; “[The student] can write using a pencil/paper however, when he has to read it back to himself, he is not able to read his own writing. To prevent this barrier whenever possible in all academic areas [the student] is provided a Chromebook to type his responses;”
 - Level of performance: 2nd-3rd grade;
- Behavioral: self-management: “[The student] is very attentive to everything happening in his environment and is therefore often distracted by activity that is typical of the general education classroom setting (students moving around, people entering and leaving room, noises, teacher redirecting other students, etc.). He requires verbal redirection back to task throughout the day, however, close proximity and gestures have also been seen to work which limits classroom academic disruption. [The student] requires prompting to raise his hand and not call out in class, or when eager to share promoted to assure his response is on topic;”
 - Level of performance: below age expectation;
- Behavioral: social interaction skills: “[The student] may have occasional outburst of laughter when he thinks that something funny has happened in the classroom; this behavior requires redirection as it is disruptive to the class. At times [the student] may have loud outburst to receive attention from adults or peers, however, when ignored Ben is able to redirect himself. Ben continues to form relationships with specific peers and is learning that not all peers will be friends;”
 - Level of performance: below age expectations;
- Fine motor: The student needs to independently use writing supports on word processing devices;”
 - Level of performance: slightly below age expectations.

The IEP required AT so that the student can type out responses and access text-to-speech and speech-to-text programs in order to access grade level curriculum, instruction, and tasks.

The IEP continued to require supplementary aids, services, and accommodations to address his math calculation, reading comprehension, behavioral: self-management, behavioral: social interaction skills, and fine motor skills needs.

The IEP includes the following goals:

- Math calculation: "Given guided instruction, models, small group instruction and practice, and calculation device, [the student] will select and apply strategies for various order of operations by April 10, 2025," with 85% accuracy. This goal does not include criteria for retention. It does not reflect on how many questions or trials the student will respond with 85% accuracy.
- Reading comprehension: "Given a text, scaffolding, and teacher-led discussion, [the student] will demonstrate comprehension of literature and informational texts by April 10, 2025," on four out of five trials. This goal does not include criteria for mastery. It does not require the student to respond accurately, just to respond.
- Behavioral: self-management: "Given teacher modeling, peer role models, and prompting, [the student] will demonstrate increased self-regulation when attending to small/large group instructional lessons and independent tasks by April 10, 2025," on four out of five trials. This goal does not include criteria for mastery. It does not include a percentage or time for increase over the baseline to determine that the student has mastered the goal.
- Behavioral: social interaction: "Given verbal prompts and modeling, [the student] will interact appropriately and cooperatively with other members of a group in academic and non-academic settings by April 10, 2025," on three out of four trials. This goal is not measurable. There is no descriptor of "appropriately and cooperatively" or criteria for mastery to determine whether the student has been successful in reaching this goal.
- Fine motor: "[The student] will utilize his visual and fine motor skills and strategies for the successful initiation and completion of writing assignments/tasks with or without the use of technology, to increase the accuracy of written output," on three out of four trials. The behavior this goal is measuring is unclear. It is not clear whether this goal is measuring initiation and completion of a writing assignment or increased accuracy of written output, or both. There is no criteria for mastery or success on this goal for either behavior.

The required special education services and OT services were continued as on the previous IEP.

5. On May 17, 2024, the IEP team convened to conduct the middle school articulation and discuss the proposed schedule, supports, and services available at the middle school level. The PWN generated following the meeting reflects that the IEP team agreed to co-taught and/or supported classes for all core academics in order for the student to access the general education curriculum, a math intervention course, and a self-contained resource class. The PWN further reflects that the complainant brought up placement concerns to the IEP team:

"[The complainant] mentioned being unsure of the placement conversation related to ARS [Autism Spectrum Disorder Services] vs. LAD [Learning and Academic Disabilities Services] from the prior 4/11 meeting. The team discussed that the team mentioned how [the student] is able to receive services through the home school model which is LAD in the middle school setting. [The complainant] asked what she does if she disagrees and [the MCPS] provided her with the mediation information flyer from MCPS."

6. The student's IEP developed on April 11, 2024, and amended on May 17, 2024, continued the areas of impact from the April 11, 2024, IEP.

The PLAAFP data and AT requirements and goals continued from the April 11, 2024, IEP.

The IEP includes the following supplementary aids, services, and accommodations:

- Text-to-speech for mathematics, science, and government assessments
- Human reader or human signer for mathematics, science, and government assessments
- Small group
- Separate or alternate location
- Frequent breaks
- Reduce distractions to self and others
- Calculation device on mathematic and non-mathematic sections
- Speech-to-text mathematics, science, government, and English language arts (ELA)
- Human scribe mathematics, science, government, and ELA
- Monitor test responses
- Extended time (1.5x)
- Daily
 - Provide assistance with organization
 - Word processor
 - Provide the student with copy of student/teacher notes
 - Math templates
 - Verbal prompting for organization of writing
 - Student read aloud when testing
 - Oral rehearsal of writing
 - Provide alternative ways for students to demonstrate learning
 - Teacher support for writing
 - Prompt with discussion questions/written response prompt question before reading
 - Monitor independent work
 - Have student repeat and/or paraphrase information
 - Limit distractions
 - Repetition in directions
 - Check for understanding
 - Break down assignments into smaller units
 - Altered/modified assignments
 - Prompt hierarchy
 - Encourage student to ask for assistance when needed
 - Strategies to imitate and sustain attention
 - Frequent eye contact/proximity control
 - Gain eye contact prior to giving directions
 - Encourage/reinforce appropriate behavior in academic and non-academic settings
 - Preferential seating.

The IEP includes:

- Five sessions of three hours and 30 minutes weekly of special education instruction in the general education classroom to address the IEP goals from April 11, 2024, to June 13, 2024;
- One session of 50 minutes weekly of special education instruction outside the general education classroom for a self-contained resource class from August 26, 2024, to April 10, 2025;
- Four sessions of 50 minutes daily of special education instruction inside the general education classroom for co-taught or supported classes for mathematics, ELA, world studies, and science from August 26, 2024, to April 10, 2025; and
- One session of 30 minutes monthly of OT from April 11, 2024, to April 10, 2025.

The IEP reflects a Least Restrictive Environment (LRE) of inside the general education classroom 80% or more, "With the exception of OT services and a resource class outside of the general education classroom, [the student] will have the opportunity to participate with peers in all activities;"

- 27 hours and 45 minutes weekly inside the general education classroom; and
- 4 hours and 20 minutes weekly outside the general education classroom.

The IEP reflects that the IEP team considered [REDACTED] school with a resource class as the student's placement.

7. On October 2, 2024, the IEP team convened to review and revise the IEP. The PWN generated following the meeting reflects that the IEP team agreed to the goals in the areas of reading comprehension, math problem solving, written language content, social interactions, self-management, and fine motor skills. In addition, the IEP team addressed the complainants' concerns regarding placement:

"[The complainant] is concerned with [the student's] safety and negative social interactions with other students. She also recognizes that his MAP scores are not improving and inquired about classroom support and if [REDACTED] is the appropriate placement or is he better suited for the ARS program. She feels as though she is not being heard."

"The school team along with instructional specialist, [the MCPS] stated that they believe [the student's] needs and the full implementation of his IEP can be met in the LAD program at [REDACTED] School. The team will continue to monitor his progress. The parent was made aware of her parental rights and responsibilities which she is able to exercise."

8. The student's IEP developed on April 11, 2024, and amended on October 10, 2024, continued the areas of impact from the May 17, 2024, amended IEP. The AT requirements and supplementary aids, services, and accommodation, special education and OT services, and the student's LRE continued from the May 17, 2024, amended IEP.

The PLAAFP includes:

- Math calculation: WJ-IV and MAP-R data are reflected; The student struggles with basic fact fluency, understanding of math concepts and their application to problem solving;
- Reading comprehension: WJ-IV and MAP-R data are reflected; The student struggles with reading independently, keeping up with longer text passages, and content specific vocabulary;
 - Level of performance: 4th grade;
- Written language content: WJ-IV and teacher data/samples are reflected; The student struggles with performance on written assessments, not consistently addressing the prompt, frequently requires dictation for writing to be understood;
 - Level of performance: 2nd-3rd grade;
- Behavioral: self-management: The student "often requires re-direction so he is listening during directions or lesson instruction, struggles to organize thoughts when responding orally to questions/prompts in class, does not read directions, does not appear to read directions or notes from class, binder/Drive organization, completing assignments by due date/deadline;"
 - Level of performance: below age expectation;
- Behavioral: social interaction skills: "[The student] may have occasional outburst of laughter when he thinks that something funny has happened in the classroom; this behavior requires redirection as it is disruptive to the class. At times [the student] may have loud outburst to receive attention from adults or peers, however, when ignored Ben is able to redirect himself."

[The student] continues to form relationships with specific peers and is learning that not all peers will be friends;"

- Level of performance: below age expectations;
- Fine motor: The student is working on using word prediction as a support for his writing as well as editing mistakes; and
 - Level of performance: slightly below age expectations.

The IEP includes the following goals and progress reports:

- Math calculation: "Given guided instruction, models, small group instruction and practice, and calculation device, [the student] will select and apply strategies for various order of operations by April 10, 2025," with 85% accuracy;
 - The progress reported on November 1, 2024, reflects: Making sufficient progress to meet goal; "[The student] is getting better at identifying the question being asked, identifying relevant information he will use to problem solve, and writing his answer in a sentence to give it context. He is still highly dependent on support from his elbow partner and/or staff, but he is striving to better understand by asking and trying to answer questions during class discussions;"
 - There is no criteria for retention; and
 - The progress report does not align with the goal and does not report the student's accuracy.
- Reading comprehension: "Given a text, scaffolding, and teacher-led discussion, [the student] will demonstrate comprehension of literature and informational texts by April 10, 2025," on four out of five trials;
 - The progress reported on November 1, 2024, reflects: Making sufficient progress to meet goal; "[The student] benefits greatly from pictures and diagrams in readings. When creating gist statements on chunked text, [the student] had difficulty formulating a summary/gist statement. [The student] benefits from the use of sentence starters and word banks to help him explain his understanding;"
 - The goal is not measurable. It is unclear as to what constitutes demonstrating comprehension of literature and informational texts; and
 - The progress report does not indicate the number of trials in which the student successfully completed the task. Consequently, it will not be possible to determine whether the student is making progress or achieving the goal.
- Written language content: "Given access to word processing software, small group instruction, a proofreading checklist, and models of expected outcome, [the student] will write opinions, informative/explanatory text, and narratives using writing processes and traits by April 10, 2025," with 80% accuracy;
 - The progress reported on November 1, 2024, reflects: Not making sufficient progress to meet goal; "The student is not yet introduced to their goal, due to the lack of assignment submissions. Some of the specific questions do not apply to my class, but [the student] does not always fully understand the feedback he is given on his writing. [The student] demonstrates his understanding of content much stronger through verbal explanation;"
 - There are no criteria for retention; and
 - There is no documentation that the IEP team convened to address the lack of progress reported for this goal on November 1, 2024;

- Behavioral: self-management: “Given teacher modeling, peer role models, and prompting, [the student] will demonstrate increased self-regulation when attending to small/large group instructional lessons and independent tasks by April 10, 2025,” on four out of five trials;
 - The progress reported on November 1, 2024, reflects: Making sufficient progress to meet goal: “The student is making progress on their goal, as demonstrated by their ability to raise their hand when they wish to speak during lecture/class discussions and ask 1-2 questions about the assignment during one-on-one conversations. [The student] will raise his hand and participate in class. However, when called on, [the student] will sometimes respond with off-task remarks (one reply was that his cat had died in December). [The student] will require some redirection to regain focus during some class assignments, but he usually only takes one reminder;”
 - The goal is not measurable. It is unclear as to what constitutes increased self-regulation.
 - There is no baseline data; and
 - The progress report does not indicate the number of trials in which the student successfully completed the task. Consequently, it will not be possible to determine whether the student is making progress or achieving the goal.
- Behavioral: social interaction: “Given verbal prompts and modeling, [the student] will interact appropriately and cooperatively with other members of a group in academic and non-academic settings by April 10, 2025,” on three out of four trials;
 - The progress reported on November 1, 2024, reflects: Making sufficient progress to meet goal: “Student is making progress on their goal, as demonstrated by their ability to communicate with classmates in a positive manner and respecting other’s perspectives. The student is improving on understanding the appropriate times and ways to interact with others in a classroom setting, but sometimes, they get distracted from their work by others. The student is improving on respecting others’ ideas during class discussions and group activities. [The student] has needed adult support when trying to handle social situations he finds difficult, such as disagreeing over a topic, asking someone to stop something that is bothering him. He is responsive to the adult support. He seems to need support processing others’ POV when it differs from his own;”
 - The goal is not measurable. It is unclear as to what constitutes appropriate and cooperative behavior; and
 - The progress report does not indicate the number of trials in which the student successfully completed the task. Consequently, it will not be possible to determine whether the student is making progress or achieving the goal.
- Fine motor: “[The student] will utilize his visual and fine motor skills and strategies for the successful initiation and completion of writing assignments/tasks with or without the use of technology, to increase the accuracy of written output,” on three out of four trials.
 - The progress reported on November 1, 2024, reflects: Making sufficient progress to meet goal: “[The student] logs into his Chromebook and accesses google docs. He typed 2 sentences with both hands. He was able to use word prediction, and edited words that were misspelled. He can navigate to class assignments, make a copy, and fill in a chart. Progress noted;” and
 - The progress report does not indicate the number of trials in which the student successfully completed the task. Consequently, it will not be possible to determine whether the student is making progress or achieving the goal.

The quarterly progress reported on November 1, 2024, was not measured in the manner required by the IEP for all goals.

The IEP continues to reflect the IEP team considered [REDACTED] school with a resource class as the student's placement.

9. There is no documentation to support the allegation that the student has identified needs in the areas of speech-language: expressive and receptive, written language fluency, and executive functioning.
10. While there is some documentation of the provision of the supplementary aids, services, and accommodations since the start of the 2024- 2025 school year, as required by the IEP, it does not demonstrate consistent provision.
11. There is documentation of the provision of the special education services and OT services since the start of the 2024-2025 school year, as required by the IEP.
12. There is no documentation to support the allegation that the complainant raised a concern regarding the need for a speech-language evaluation to the IEP team since January 2024.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

PLACEMENT DETERMINATION

In determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made by the IEP team. The placement decision must be made in conformity with the least restrictive environment (LRE) provisions, determined at least annually, based on the student's IEP, and as close as possible to the student's home (34 CFR § 300.116 and COMAR 13A.05.01.10(C)(1)).

In addition, each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include the alternative placements listed in the definition of special education under § 300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with a regular class placement (34 CFR § 300.115).

In this case, there is documentation that the January 10, 2024, May 17, 2024, and October 2, 2024, IEP teams discussed the continuum of alternative placements. The IEP team agreed that the student's placement was [REDACTED] School with a resource class, in the general education classroom for 80% or more.

Based on Findings of Fact #1, #5 through #8, MSDE finds that the MCPS did follow proper procedures when determining the student's educational placement since May 2024, in accordance with 34 CFR §§ 300.114 -.116. Therefore, MSDE does not find a violation.

ALLEGATION #2

DEVELOPMENT OF THE IEP

In this case, there is no documentation to support the allegation that the student has identified needs in the areas of speech-language: expressive and receptive, written language fluency, and executive functioning.

Supplementary Aids, Services, and Accommodations

Based on Findings of Fact #6, #8, and #10, MSDE finds that the MCPS has not ensured that the student was consistently provided with the special education, supplementary aids, services, and accommodations as 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.

ALLEGATION #5

ADDRESSING THE LACK OF PROGRESS TOWARDS IEP GOALS

In this case, the quarterly progress reported on November 1, 2024, for written language content reflects that the student was not making progress due to the skill not yet being introduced due to the lack of assignment submissions.

Based on Finding of Fact #8, MSDE finds that the MCPS has not ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the IEP goals, since October 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE finds a violation.

ALLEGATION #6

MEASUREABLE IEP GOALS

Based on Finding of Fact #8, MSDE finds that the MCPS has not ensured that the student's progress towards achievement of the annual IEP goals were measured as required by the IEP during the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .324. Therefore, MSDE finds a violation.

ALLEGATION #7

ADDRESSING PARENT'S CONCERN

In this case, while there is documentation that the IEP considered and determined a pragmatics assessment was not necessary on January 10, 2024, there is no documentation to support the allegation that the complainants raised a concern regarding the specific need for a speech-language evaluation to the IEP team since January 2024.

Based on Findings of Fact #1 and #12, MSDE finds that the MCPS was not required to ensure that the IEP team addressed the parent's concerns regarding the need for a speech-language evaluation since January 2024, because the IEP team was not aware of the parent's concern in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

Based on Finding of Fact #1, MSDE finds that the MCPS has ensured that the IEP team addressed the parent's concerns regarding the need for an FBA since January 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 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.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 2, 2025, that the IEP team has taken the following action:

- Provided supplementary aids, services, and accommodations;
- Revised the IEP goals to be measurable;
- Convened an IEP team meeting to discuss the lack of progress reported on November 1, 2024, for written language content;
- Determined the compensatory services needed to remediate the violations identified in this investigation; and
- Developed a plan for the implementation of the 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 May 2, 2025, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the implementation of developing an IEP specific to the student's needs, developing appropriate measurable goals, providing supplementary aids, services, and accommodations, and reporting accurately measured quarterly progress, under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance and document provision of services.

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

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.

documentation must support a written request for reconsideration, and the written request must include a compelling reason for 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. 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/sd

c: Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Gerald Loiacono, Supervision, Resolution and Compliance Unit, MCPS
Maritza Macias, Paralegal, MCPS
[REDACTED], Principal, [REDACTED], 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
Sarah Denney, Complaint Investigator, Dispute Resolution, MSDE