

February 26, 2025

[REDACTED]

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

RE: [REDACTED]  
Reference: #25-203

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], 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 developed and implemented an Individualized Education Program (IEP) that addresses the student's identified needs since December 2023, in accordance with 34 CFR §§ 300.323 and .324. Specifically, the complainant alleged that:
  - The present levels of academic achievement and functional performance (PLAAFP) do not include current data.
  - The IEP does not consider the most recent evaluation data.
  - Meeting and identifying sections of the IEP are incomplete or incorrect.
  - The Community-Based Instruction (CBI) information included in the IEP is incomplete.
  - The IEP does not contain clear and measurable annual IEP goals in reading comprehension and communication.
  - The IEP does not include the provision of research-based interventions in reading and math.
  - The IEP does not address the student's use of an AAC device.
  - The student is not receiving the general education classroom instruction as required by the IEP.
  - The Least Restrictive Environment (LRE) required by the IEP does not ensure the student's participation with nondisabled peers.
  - The student is not receiving the transportation child restraint required by the IEP.
  - The IEP does not include an Appendix A.

2. The MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the January 17, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
3. The MCPS did not follow proper procedures when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303- .306. Specifically, the complainant alleged that:
  - The educational assessment tool used to evaluate the student was not appropriate and the assessment did not include parental input; and
  - The student did not use the augmentative and alternative communication (AAC) device required by the student when completing the reevaluation assessments.
4. The MCPS did not ensure that the student was comprehensively assessed in all areas of suspected disability when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303- .306 and COMAR 13A.05.01.06. Specifically, the complainant alleged that there was no occupational therapy or functional behavior assessments (FBA), or an assistive technology consultation conducted.
5. The MCPS did not ensure that the February 2024 reevaluation of the student was completed within the required timelines, in accordance with 34 CFR § 300.301 and COMAR 13A.05.01.06.
6. The MCPS has not ensured that the IEP team addressed parental concerns about occupational therapy or the resignation of the student's teacher since October 2024, in accordance with 34 CFR §324.
7. The MCPS did not provide prior written notice of the IEP team decisions from IEP team meeting held in October 2024, in accordance with 34 CFR § 300.503.
8. The MCPS has not ensured that the IEP team convened to review the student's IEP before December 2024, in order to ensure that the IEP was reviewed at least annually, 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. The student attends [REDACTED] School ([REDACTED]) and has an IEP that requires the provision of special education instruction and related services.

#### **FINDINGS OF FACT:**

1. On December 11, 2023, the IEP team convened to conduct the student's annual review. The prior written notice (PWN) generated after the meeting reflects that the "team considered current and historical classroom data, parental input, and most recent formalized assessments" in making its determinations.

The team completed Appendix A, and updated the present levels of performance data, supplementary aids and services, instructional testing accommodations, the extended school year (ESY) decision, the IEP goals and objectives, speech-language, and occupational therapy (OT) services, and the LRE determination. The PWN reflects that although the school-based IEP team members proposed that updated assessments were not required, the complainant disagreed. The IEP team agreed and determined that a psychological assessment, informal educational assessment, speech-language assessment, and informal OT status update were required.

2. The IEP developed at the December 11, 2023, IEP meeting reflects the student's primary disability as autism with communication, CBI, math problem solving, physical education, reading comprehension, speech-language expressive and receptive language, written language content, and fine motor as areas affected by the disability. The annual review date for the student's IEP is December 10, 2024.

The IEP reflects the complainant provided written consent for the student to be instructed using alternate standards on December 20, 2023. The IEP reflects that graduation requirements were not explained to the parents.

The PLAAFP reflects the student as performing on the following instructional grade levels based on November 2023 data:

- Reading comprehension – scattered first-grade skills
- Math problem solving – scattered first-grade skills
- Written language content – scattered pre-K to K skills
- Speech-language receptive language – below age expectancy
- Speech-language expressive language – below age expectancy
- Communication – below age expectancy
- CBI – Kindergarten
- Fine motor – below age expectancy
- Physical education – below age expectancy based on December 2022 data

The IEP reflects the student requires an assistive technology (AT) device and AT services. "[The student] benefits from picture cards but is not limited to this one form of communication in order to express himself. [The student] requires AT services through a Speech-Language Pathologist in order to address his needs in communication."

The IEP requires the following instructional and assessment accommodations:

- General administration directions clarified
- General administration directions read aloud and repeated as needed
- Redirect student
- Separate or alternate location
- Frequent breaks
- Reduce distractions to self
- Reduce distractions to others
- Paper-based edition
- ELA/Literacy selected response human scribe
- Mathematics, science, government response human scribe
- Monitor test response
- ACCESS for WLLs scribe
- Extended time (2.0x)

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

- Picture schedule
- Verbal/visual cues
- Modeling
- Use of clear and concise directions
- Provide alternative ways for students to demonstrate learning
- Encourage/reinforce appropriate behavior in academic and nonacademic settings
- Provide frequent changes in activities or opportunities for movement

- Provide manipulatives and/or sensory activities to promote listening and focusing skills

The IEP requires the following goals:

- Fine Motor: “By November 2024, using adapted materials as needed, faded modeling to set expectations and no more than 3 verbal or gestural prompts for accuracy during a task, [the student] will demonstrate functional fine motor and visual motor skills to produce written work so like the model, with 80% accuracy over 4 opportunities, as measured by work samples, informal observation and therapy notes.”
  - Method of Measurement: Other: Observation, work samples, therapy logs
  - Criteria (Mastery and Retention) With: 80 % Accuracy
- Math Problem Solving: “Given necessary manipulatives and fading teaching strategies [the student] will demonstrate his knowledge...of understanding place value system by solving subtraction problems and simple word addition and subtraction problems within 20 by 12/10/2024.”
  - Method of Measurement: Other: Classroom data, observation, and modified curriculum
  - Criteria (Mastery and Retention) With: 80 % Accuracy

This goal has no criteria for retention.
- Reading Comprehension: “Given the necessary materials and prompts as necessary [the student] will demonstrate knowledge of reading by identifying the main idea and sequencing events in a paragraph or story by 12/10/2024.”
  - Method of Measurement: Other: Classroom observation, data, & modified curriculum
  - Criteria (Mastery and Retention) With: 80 % Accuracy

This goal has no criteria for retention.
- Reading Comprehension: “Given necessary materials and fading teaching strategies, [the student] will answer questions to demonstrate understanding of a text by verbally responding to comprehension questions after independently reading a modified curriculum book by 12/10/2024.”
  - Method of Measurement: Other: Classroom Data and Observation
  - Criteria (Mastery and Retention) With: 80 % Accuracy

This goal has no criteria for retention.
- Communication: “Given prompts as necessary [the student] will increase his use of appropriate social scripts throughout the day by 12/10/2024.”
  - Method of Measurement: Other: Classroom observation and data
  - Criteria (Mastery and Retention) With: 100% accuracy for 3 consecutive trials
- CBI: “Given necessary adaptive materials and fade prompt hierarchy, [the student] will increase his functional independent living and community skills by 12/10/2024.”
  - Method of Measurement: Other: Classroom observation
  - Criteria (Mastery and Retention) With: 80 % increase

This goal is not measurable as written. It does not designate the behavior required for which the student will demonstrate mastery. This goal has no criteria for retention.
- Written Language Content: “Given necessary materials and fading teaching strategies, [the student] will demonstrate the production and distribution of writing by composing and writing 3-5 word sentences using appropriate spelling and spacing between words, by 12/10/2024.”
  - Method of Measurement: Other: Classroom data, observation, and modified curriculum

- Criteria (Mastery and Retention) With: 100% accuracy for 3 consecutive trials
- Speech-Language Receptive Language: “Given 3 to 5 pictures, [the student] will select two pictures and explain the similarities and differences in 4 out of 5 opportunities.”
  - Method of Measurement: Informal Procedures: across three consecutive sessions
  - Criteria (Mastery and Retention) With: 4 out of 5 trials
  - This goal does not include criteria for mastery. There is no requirement for the student to accurately respond to the stimulus, just that he respond in 4 out of 5 trials.
- Speech-Language Expressive Language: “[The student] will take up to three conversational turns by responding with 3–4-word sentences.”
  - Method of Measurement: Informal Procedures: across three consecutive sessions
  - Criteria (Mastery and Retention) With: 4 out of 5 trials
- Physical Education: “Given modeling, verbal and visual cues, clear and concise directions, and praise and encouragement for positive behaviors, [the student] will throw and catch an [object] within 3 feet (i.e. ring in bucket, foam ball at pins).”
  - Method of Measurement: Other: physical educator observation, data collection, and collaboration
  - Criteria (Mastery and Retention) With: 3 out of 4 trials

The IEP requires the following special education and related services:

- One, 25-hour and five-minute session of classroom instruction outside general education, weekly.
- Five, one-hour sessions of classroom instruction in general education, weekly.
- Two, 30-minute sessions of occupational therapy (OT), monthly.
- One, 30-minute session of adapted physical education, weekly.
- Two, 30-minute sessions of speech-language therapy, weekly.
- Transportation

The LRE required by the IEP is inside general education less than 40% of the school day.

- “Data supports that [the student] benefits from a small, structured classroom setting with a low teacher to student ratio that provides individualized instruction with behavior and communication supports. The least restrictive environment in which [the student] can meet his IEP goals and objectives is by attending the autism program.”
- “[The student] can participate with support in lunch, recess, assemblies and other school activities as deemed appropriate by the school team. Refer to services page for amount of time within and outside the general education environment.”

3. On December 20, 2023, the complainant provided consent for the student to be assessed in the areas of academic performance: reading, mathematics, and written language; communication: expressive/receptive language; functional/adaptive performance; intellectual/cognitive functioning; emotional/social/behavior development; motor skills: fine motor; and an observation. The document basis for decision reflects “The team discussed eligibility given that parent had requested to discuss updated assessments during [the student’s] 5<sup>th</sup> grade school year. The school-based IEP team members did not feel that updated assessment information was needed at this time given that [the student] presents with similar strengths and needs to those reflected in the 2019 and 2020 assessments and there is sufficient data from his classroom performance and therapy sessions included in the present levels of academic achievement and functional performance and quarterly progress updates to confirm that

[the student] continues to be eligible for special education services as a student with autism and to develop an appropriate IEP that targets his individual needs and outlines the supports he needs to access the curriculum. However, [the student's] parents requested that assessments be completed."

4. On February 20, 2024, a "Report of Speech-Language Re-assessment" was developed for the student. The report included the reason for the referral, background information, the speech-language assessment techniques, and analysis, a "Receptive I Developmental Age Chart," an "Expressive I Developmental Age Chart," interpretation, the summary and recommendations which included student strengths and weaknesses. The Evaluating Acquired Skills in Communication Third Edition was used as the standardized assessment conducted for the student. It was determined that the "speech and language data support the presence of oral communication needs consistent with a speech-language disorder."

There is no documentation that the student used his AAC device during the informal assessment.

5. On February 21, 2024, an "Educational Assessment and Update" was conducted for the student. The assessment report includes background information, current levels of performance in reading, math, written language, language, personal management and social skills, and behavior. The assessment report summary reflects the student requires "a structured learning environment with a strong focus on functional academics. [The student's] program should continue to focus on functional reading, math, and writing. His academic needs should be addressed in a program that offers a low adult to student ratio, structure, and intensive teaching."

There is no documentation that the student used his AAC device during the informal assessment.

6. On February 29, 2024, an "Occupational Therapy Reevaluation Status Report" was completed for the student. The report includes background information, the purpose of the reevaluation, and data obtained from a clinical observation in the areas of written output, pencil control, letter formation/motor planning, stabilization of work, and student strengths and needs. It was recommended that the student should continue receiving OT services.

There is no documentation that the student used his AAC device during the informal assessment.

7. On February 29, 2024, a "Psychological Assessment Report Re-Evaluation" was completed for the student. The assessment report included the reason for referral, sources of data, background information, behavioral observations based on classroom observations, test session observations, assessment results and analysis of cognitive functioning, social-emotional and behavioral/adaptive behavior functioning, and a summary. The sources of data for the assessment included a "Record Review Observations Teacher Interview Leiter International Performance Scale – Third Edition (Leiter-3) Autism Spectrum Rating Scales (ASRS), parent and teacher rating forms - Ages 6-18 Checklist for Autism Spectrum Disorders (CASD) Childhood Autism Rating Scale – Second Edition, Standard Version (CARS2-ST) and Questionnaire for Parents/Caregivers (CARS2-QPC) Vineland Adaptive Behavior Scales – Third Edition, and parent and teacher rating forms (Vineland-3)." The report reflects that "across observations, [the student] had his speech-generating device available to him. However, he was not observed to use the device independently for communication. While, overall, he tended to use limited spontaneous language for communication, when he did communicate, he was observed to use single words, short phrases, or simple sentences using verbal speech." The assessment summary "supports that [the student] meets the criteria for a diagnosis of Autism Spectrum Disorder, requiring very substantial support (Level 3) for deficits in social communication and restricted, repetitive behaviors, with accompanying intellectual impairment and with accompanying language impairment."

8. On February 29, 2024, the IEP team reconvened to review the reevaluation assessment results. The PWN generated after the meeting reflects the IEP team considered the “psychological, educational, and speech-language assessments, occupational therapy status report, and parent input” to make its determinations. The IEP team decided that the assessment data supported the continuation of the student’s eligibility for special education services under the autism coding.
9. The amended IEP developed at the February 29, 2024, IEP meeting reflects the updated PLAAFP data in reading comprehension, math problem solving, written language, communication, physical education, and CBI as “February 2024: See previous update below.” The updated PLAAFP data in speech-language receptive language provides updated February 2024 data from “Evaluating Acquired Skills in Communication Third Edition.” There is no updated data for fine motor.

The instructional and assessment accommodations required by the IEP continued as in the previous IEP.

The supplementary aids, services, program modifications and supports required by the IEP continued as in the previous IEP.

The IEP goals required by the IEP continued as in the previous IEP.

The special education instruction, related services, and LRE required by the IEP continued as in the previous IEP.

10. On May 16, 2024, the IEP team reconvened to amend the student’s IEP. The PWN generated after the meeting reflects the IEP team considered “current and historical classroom data, parental input, and most recent formalized assessments” in making its determinations. The IEP team reviewed the student’s progress on the IEP goals, reviewed present level of performance data, corrected the dates for ESY services, reviewed the LRE decision, and placement. The PWN reflects the complainant requested to tour the middle school program and it was reported that [REDACTED] “does not have an autism program yet.”
11. The IEP amended at the May 16, 2024, IEP meeting reflects the ESY dates for speech-language therapy and classroom instruction were updated, and the LRE was updated to reflect the placement options considered and the placement option selected. “The team concluded that [the student] continues to require the low student-to-teacher ratio and structure of classic autism services. The team recommended autism services for middle school due to the low student-to-teacher ratio and structure of classic autism services.” The other IEP data continued as in the previous IEP.
12. On July 26, 2024, the student’s IEP was amended. The PWN generated after the meeting reflects the student’s IEP was amended to reflect a change in location for the student’s service school.
13. The amended July 26, 2024, IEP reflects the student’s service school as [REDACTED] and requires that the student receive “specialized transportation with an aide on the bus to the closest possible school with appropriate services.” In addition to a bus attendant for supervision and safety, the IEP also requires that the student receive “appropriate child safety restraint.”
14. There is no documentation that an IEP meeting was scheduled or held in October 2024.
15. On December 16, 2024, MCPS staff emailed the documents for the student’s January 7, 2025, IEP meeting to the complainant. These documents included the 5-day notice of documents, the student’s IEP, an Appendix A printout, a parent report, and progress notes for the student’s current IEP. This meeting was rescheduled for January 17, 2025.

16. On January 17, 2025, the IEP team reconvened to conduct the student's annual review. The PWN generated after the meeting reflects the IEP team "considered current and historical classroom data, prior evaluations, and family input" to make its decisions. The team proposed to do the following:
- "Increase the student's PE service time to 30 minutes daily [and] update the PE goal to reflect increased throwing and catching distance" because "PE is a daily class, and students receive specialized instruction aligned with their IEP goals on a daily basis."
  - The family requested the student receive a standardized OT evaluation, and the team recommended conducting a formal OT evaluation in sensory processing, fine motor skills, and visual motor skills. The family disagreed with the reduction of OT services last school year. The family expressed concerns about reducing the student's OT services during the previous school year because the student did not achieve the IEP goal in this area. "The OT also agreed to provide the family with documentation from last school year that supports the decrease in service from 30 minutes per week to 2x30/month by January 31." The OT also agreed to modify the handwriting goal and objective to address the student's handwriting and to modify the language of the goal and objectives to make it more clear per the family's request.
  - It was reported that "the speech-language pathologist (SLP) is currently supporting the use of [the student's] AAC device. The family requested an [interactive] consultation to support [the student's] communication needs [and] the team agreed to request an Interact evaluation to provide additional support."

The PWN reflects "the speech-language therapy portion of the IEP was updated on December 23, 2024, after the draft was sent to the parents on 12/16/24. The team agreed to send an updated IEP, incorporating all changes, to the family at least five days before the continuation meeting [on February 10, 2025]." All the proposals were accepted by the team.

17. The IEP team did not develop a new IEP for the student at the January 17, 2025, IEP meeting or update the student's IEP amended on July 26, 2024.
18. On January 17, 2025, the complainant emailed MCPS staff stating that although it was mentioned that the complainant was sent documentation for the IEP meeting on December 16, 2024, he did not receive "any IEP documents or other related information on that date."
19. On January 18, 2025, MCPS staff emailed the complainant sharing that the information sent home on December 16, 2024, included "a parent report, notice of 5-day documents, a copy of the IEP, a copy of all progress notes for reference, and a blank Appendix A." The email further states that the staff member sent an email that included "some work samples, data sheets, and a PE data collection log" on January 15, 2025.
20. On January 27, 2025, the OT emailed documentation supporting the decrease of the OT services provided to the student since October 2023. The email included "OT progress report, OT Service Provider logs, and OT Status Report (Feb 2024) for the 2023-2024 school year."
21. On February 10, 2025, the IEP team reconvened to continue the student's annual review. The PWN generated after the meeting reflects the IEP team proposed to incorporate additional data and improve the organization of the student's present levels to provide a clearer, more comprehensive picture of the student's current performance and needs in the IEP. The team also proposed to modify the student's CBI goal to focus on safety behaviors. The team also reported that additional supports would be added to the supplementary aids and services required by the IEP to more "accurately represent the supports being currently provided." It was also reported that "an [Functional Behavior Assessment] FBA was being conducted to assess the functions of [the student's]



challenging behaviors and their impact on his education, helping the team determine whether a BIP is necessary. The family expressed that the student's OT services should be reinstated to previous levels, and "the occupational therapist determined the previous levels of OT services is not necessary at this time. Sensory needs are being supported through supplementary aids and services, while fine motor needs will be addressed through specific IEP goals. Additionally, based on [the student's] current IEP, the occupational therapist concurs with the existing level of service time and does not recommend an increase." The family disagreed with this determination, and the "OT agreed to send independent work samples but noted that [the student] still requires prompting to produce most written work. The PWN reflects that "parent concerns will be documented in the IEP to ensure their input is reflected."

22. The IEP team did not develop a new IEP for the student at the February 10, 2025, IEP meeting or update the student's IEP amended on July 26, 2024.
23. There is no documentation that the complainant asked about the student's teacher's resignation in October 2024.
24. There is documentation that the student received the OT services required by the IEP since December 2023.
25. While there is documentation that the student received some of the speech-language services required by the IEP, it does not reflect that the services have been consistently provided since December 2023.
26. While there is documentation that the student received some of the specialized instruction required by the IEP, it does not reflect that the instruction has been consistently provided to the student since December 2023.
27. While there is documentation of a child safety harness on the school bus, it does not demonstrate that the student has been consistently provided with the daily use of the child safety harness while riding the school bus since December 2023.

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

##### **ALLEGATION #1**

##### **DEVELOPMENT AND IMPLEMENTATION OF THE IEP**

##### **IEP Development**

Each principal shall inform all students and their parents or guardians annually at a minimum of the following:

- Maryland's graduation requirements
- The student's progress on fulfilling the credit, Maryland high school assessments, service learning, and applicable IEP requirements for graduation
- The results of each Maryland high school assessment taken by the student
- A plan for appropriate assistance, if applicable and
- The Department's schedule for the Maryland Comprehensive Assessment Program (MCAP) general and alternate assessments. [COMAR 13A.03.02.12C]. (*MARYLAND STATEWIDE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS GUIDE*, 2024. p. 56)

In this case, the student's current amended IEP does not include current data in the PLAAFP, does not include or consider the student's most recent evaluation data, does not reflect that graduation requirements were explained to the parent, and does not include measurable annual IEP goals.

Based on the Findings of Fact #1 to #13, #16, #17, and #21, MSDE finds that the MCPS has not developed an IEP that addresses the student's identified needs since December 2023, in accordance with 34 CFR §§ 300.323 and .324. Therefore, MSDE finds a violation.

### **IEP Implementation**

In this case, there is no documentation that the student has consistently received the specialized instruction, speech-language therapy, daily use of a child safety harness while riding the school bus, and IEP goal progress monitoring as required by the IEP.

Based on the Findings of Fact #1, # 2, #20-#22, and #24-#27, MSDE finds that the MCPS has not implemented an IEP that addresses the student's identified needs since December 2023, in accordance with 34 CFR §§ 300.323 and .324. Therefore, MSDE finds a violation.

### **ALLEGATION #2**

### **PROVISION OF IEP DOCUMENT FIVE DAYS PRIOR TO IEP MEETING**

Based on the Findings of Fact #15, #18, and #19, MSDE finds that the MCPS did ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the January 17, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, MSDE finds no violation.

### **ALLEGATION #3**

### **PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT**

In this case, the PWN from the December 11, 2023, IEP meeting reflects the IEP team agreed to conduct an informal educational assessment. The psychological assessment report reflects that "across observations" the student has his AAC device available to him.

Based on the Findings of Fact #1, #3, and #4 to #7, MSDE finds that the MCPS did follow proper procedures when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303-.306. Therefore, MSDE does not find a violation.

### **ALLEGATION #4**

### **EVALUATION PROCEDURES**

In this case, the complainant alleged that there was no occupational therapy, FBA, or an assistive technology consultation conducted. The December 11, 2023, IEP meeting PWN reflects that the IEP team agreed to conduct an informal occupational therapy status update. There is no documentation that the IEP team determined that the student required an FBA or assistive technology consultation. The informal educational assessment reviewed the student's personal management, social skills, and behavior.

Based on the Findings of Fact #1, #3, #5, and #7, MSDE finds that the MCPS did ensure that the student was comprehensively assessed in all areas of suspected disability when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303- .306 and COMAR 13A.05.01.06. Therefore, MSDE does not find a violation.

### **ALLEGATION #5**

### **PROPER PROCEDURES FOR COMPLETING A REEVALUATION IN THE REQUIRED TIMELINE**

In this case, the complainant consented to assessments for the student on December 20, 2023. The assessments were completed and reviewed by February 29, 2024, before the required timeline expires.

Based on Findings of Fact #3, and #4 through #8, MSDE finds that the MCPS did ensure that the February 2024 reevaluation of the student was completed within the required timelines, in accordance with 34 CFR § 300.301 and COMAR 13A.05.01.06. Therefore, MSDE does not find a violation.

## **ALLEGATION #6 ADDRESSING PARENT CONCERN**

### **Teacher Resignation**

There is no documentation that the complainant inquired about the resignation of the student's teacher in October 2024 or at an IEP meeting.

Based on Finding of Fact #23, MSDE finds that there is no documentation that the complainant inquired about the teacher's resignation in October 2024 which would require the MCPS to ensure that the IEP team addressed parental concerns, in accordance with 34 CFR §324. Therefore, MSDE does not find a violation.

### **Occupational Therapy**

There is documentation that the complainant has been provided with the OT documents requested by the complainant at the January 17, 2025, IEP meeting.

Based on the Findings of Fact #1 to #3, #6, #8, #9, #13, and #20, MSDE finds that the MCPS has ensured that the IEP team addressed parental concerns about OT since January 2025, in accordance with 34 CFR §324. Therefore, MSDE does not find a violation.

## **ALLEGATION #7 PROVISION OF PRIOR WRITTEN NOTICE OF THE IEP DECISIONS**

In this case, there is no documentation that an IEP meeting was scheduled for, or held in, October 2024.

Based on the Finding of Fact #14, MSDE finds that the MCPS was not required to provide prior written notice of the IEP team decisions from IEP team meeting held in October 2024, in accordance with 34 CFR § 300.503 because no meeting was held. Therefore, MSDE does not find a violation.

## **ALLEGATION #8 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).

Based on the Findings of Fact #2 and #22, MSDE finds that the MCPS has not ensured that the IEP team convened to review the student's IEP before December 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.

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

### **REPORTING OF PROGRESS**

#### **FINDINGS OF FACT:**

28. The progress reported toward the student's achievement of the IEP goals for January 26, 2024, is as follows:

- Reading Comprehension - Making sufficient progress to meet goal.
- Reading Comprehension - Making sufficient progress to meet goal.

- Speech-Language Expressive Language - "Newly Introduced skill; progress not measurable at this time."
- Physical Education - Making sufficient progress to meet goal
- Fine Motor (January 27, 2025) - Making sufficient progress to meet goal.

There is documentation that the goals are reported and measured as required by the IEP.

- Communication - Making sufficient progress to meet goal.
  - Actual Results Achieved:
  - "[The student] is learning to initiate and maintain conversations. He is able to have 1 conversational exchange and is work[ing] on 2 conversational exchanges. He needs prompting to ask a question back to person."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Community-Based Instruction - Making sufficient progress to meet goal
  - Actual Results Achieved: % increase
  - "[The student] continues to do well in the community. He stays with the group. He continues to need 1-2 prompts to stop at lights and stop signs. He is still working on finding the correct aisles for items, if brought to the ends of aisle, he will look to see if an item maybe in that aisle."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

- Written Language Content - Making sufficient progress to meet goal.
  - Actual Results Achieved:
  - "[The student] is working on creating and writing 3-word sentences based on a visual. He is able to do this with correct spacing. [The student] is working on creating writing 3-word sentences based on a visual with correct spelling and proportions. He is able to write within a space with 1-2 verbal prompts to stay above the line and in the box."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Speech-Language Receptive Language - Making sufficient progress to meet goal
  - Actual Results Achieved: 1 out of 5 trials
  - "[The student] at this time requires continued repetition of same vs. different with visual cues and verbal models."

The progress toward this goal is not reported as required by the IEP. It does not reflect the trials required by the goal

- Math Problem Solving - Making sufficient progress to meet goal.
  - Actual Results Achieved: % Accuracy
  - "[The student] has started distinguishing between addition and subtraction problems. He can complete this task given 2-3 verbal prompts. However, he is still learning to recognize the different signs (+,-) to solve problems. He is learning to count out money."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

29. The progress reported toward the student's achievement of the IEP goals for April 9, 2024, is as follows:

- Reading Comprehension - Making sufficient progress to meet goal

- Reading Comprehension - Making sufficient progress to meet goal
- Speech-Language Receptive Language - Making sufficient progress to meet goal
- Math Problem Solving - Making sufficient progress to meet goal
- Fine Motor - Making sufficient progress to meet goal

There is documentation that the goals are reported and measured as required by the IEP.

- Communication - Making sufficient progress to meet goal
  - Actual Results Achieved:
  - “[The student] is learning to initiate and maintain conversations. He is able to have 1 conversational exchange. He is able to maintain 2 conversational exchanges but needs reminders to ask questions or maintain a conversation.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Community Based Instruction - Making sufficient progress to meet goal
  - Actual Results Achieved: % increase
  - “[The student] continues to do well in the community. He stays with the group. He continues to need 1-2 prompts to stop at lights and stop signs. He is still working on finding the correct aisles for items, if brought to the ends of aisle, he will look to see if an item maybe in that aisle. When looking for aisle, [the student] likes to read all the words on the end.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

- Written Language Content - Making sufficient progress to meet goal
  - Actual Results Achieved:
  - “[The student] is working on creating and writing 3-word sentences based on a visual. He is currently working on spacing and spelling. [The student] is working on creating writing 3-4 word sentences based on a visual with correct proportions. He is able to write within a space with 1-2 verbal prompts to stay above the line and in the box.’

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Speech-Language Expressive Language - Making sufficient progress to meet goal
  - Actual Results Achieved: out of trials
  - “[The student] will take a conversational turn with a verbal prompt and a visual sentence. Right now he is only repeating back what he hears and is continuing to learn various common responses to everyday comments such as, when someone asks how are you, when they say you look nice, when someone wins a prize, etc.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the trials required by the goal.

- Physical Education - Making sufficient progress to meet goal
  - Actual Results Achieved: out of trials
  - “[The student] continues to need 2 prompts to complete task. He has shown more interest in throwing objects but continues to try catching objects.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the trials required by the goal.

30. The progress reported toward the student's achievement of the IEP goals for June 13, 2024, is as follows:

- Reading Comprehension - Making sufficient progress to meet goal
- Reading Comprehension - Making sufficient progress to meet goal
- Math Problem Solving - Making sufficient progress to meet goal
- Fine Motor - Making sufficient progress to meet goal

There is documentation that the goals are reported and measured as required by the IEP.

- Communication - Making sufficient progress to meet goal.
  - Actual Results Achieved:
  - "[The student] is learning to initiate and maintain conversations. He is able to have 3 conversational exchange. He is able to maintain 2-3 conversational exchanges but needs reminders to ask questions."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Community Based Instruction - Making sufficient progress to meet goal
  - Actual Results Achieved: % increase
  - "[The student] continues to do well in the community. He stays with the group, but when he gets excited he has a tendency to skip ahead. He continues to need 1-2 prompts to stop at lights and stop signs. He is still working on finding the correct aisles for items, if brought to the ends of aisle, he will look to see if an item maybe in that aisle. He is able to complete this task with no more than 2 prompts and a visual list."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

- Written Language Content - Making sufficient progress to meet goal
  - Actual Results Achieved:
  - "[The student] is working on creating and writing 4-5-word sentences based on a visual. He is can write with correct spacing and working on spelling and proportions. He is able to write within a space with 1-2 verbal prompts to stay above the line and in the box."

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Speech-Language Receptive Language - Making sufficient progress to meet goal
  - Actual Results Achieved: out of trials
  - "[The student] is making excellent progress with describing similarities and differences. When given choices, he is able to identify similarities and differences of pictures or objects. We are working towards being able to explain independently with less prompting."

The progress toward this goal is not reported as required by the IEP. It does not reflect the trials required by the goal.

- Speech-Language Expressive Language - Making sufficient progress to meet goal
  - Actual Results Achieved: out of trials
  - "[The student] continues to benefit from visuals and models to be able to take a conversational turn. He will greet and respond to yes/no questions but continues to require maximum support for a follow up turn in conversation."

The progress toward this goal is not reported as required by the IEP. It does not reflect the trials required by the goal.

- Physical Education - Making sufficient progress to meet goal
  - Actual Results Achieved: out of trials
  - “[The student] continues to need 1-2 prompts to complete task. He has been throwing and catching. He needs more assistance with catching than throwing.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the trials required by the goal.

31. The progress reported toward the student’s achievement of the IEP goals for November 25, 2024, is as follows:

- Written Language Content - Achieved
- Fine Motor - Making sufficient progress to meet goal

There is documentation that the goals are reported and measured as required by the IEP.

- Reading Comprehension - Making sufficient progress to meet goal
  - Achieved: % Accuracy
  - “Given the necessary materials, repeated practice/readings and verbal/gestural prompts, [the student] is able to sequence 3 events in a story, identify the main idea/topic, and fill in details of a story (fill in the blank statements). He demonstrates comprehension by selecting a picture with a caption from a field of three.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

- Reading Comprehension - Making sufficient progress to meet goal
  - Actual Results Achieved: % Accuracy
  - “Given necessary materials and fading teaching strategies, [the student] is making sufficient progress in reading comprehension. He is able to differentiate between ‘What’ and ‘Who’ in leveled stories after repeated practice. We will continue maintenance practice of this skill and add ‘Where’ to his repertoire of comprehension. He will also practice story sequencing of events and apply this skill to real world scenarios such as his school schedule or how to complete a task.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

- Communication - Making sufficient progress to meet goal
  - Actual Results Achieved
  - “[The student] is able to respond to questions (i.e. yes no questions). With repeated practice and visual supports, he can engage in reciprocal conversations with 2 exchanges.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy or trials required by the goal.

- Community Based Instruction - Making sufficient progress to meet goal
  - Actual Results Achieved: % increase
  - “In community settings, [the student] demonstrates safe behavior (responding to safety signs-i.e. crosswalk- and safety directions-i.e. stop and wait). [the student] needs to work on staying with the group and identifying items from a list with more independence.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the accuracy required by the goal.

- Speech-Language Receptive Language (November 1, 2024) - Making sufficient progress to meet goal

- Actual Results Achieved: out of trials
- “[The student] is making good progress on this goal. He is able to point to pictures that are alike, and sessions are focused on his ability to express what is different between pictures (e.g., color, number, etc.).”

The progress toward this goal is not reported as required by the IEP. It does not reflect the number of trials required by the goal.

- Speech-Language Expressive Language (November 1, 2024)- Making sufficient progress to meet goal

- Actual Results Achieved: out of trials
- “[The student] is increasing in his ability to engage in conversation with others. He is able to say "hello" and "how are you" with his device and verbally when given a verbal or visual cue. Therapy has been focused on increasing his ability to comment on his surroundings and tasks throughout the school day in order to increase communication with adults/peers rather than rote social scripts.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the number of trials required by the goal.

- Physical Education - Making sufficient progress to meet goal

- Actual Results Achieved: out of trials
- “Given modeling, verbal and visual cues, clear and concise directions, and praise and encouragement for positive behaviors, [the student] is making progress on this goal.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the level of accuracy required by the goal.

- Math Problem Solving - Making sufficient progress to meet goal

- Actual Results Achieved: % Accuracy
- “Given manipulatives, number lines, modeling and repeated practice, [the student] can add and subtract by counting objects/manipulatives or taking away objects. He will need to continue practicing both skills at the visual/picture level. We will continue to practice in order to maintain these skills. Additionally, [the student] will continue to practice identifying groups with ‘more’ or ‘less’ objects and making real world connections.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the level of accuracy required by the goal.

32. The progress reported toward the student’s achievement of the IEP goals for January 28, 2025, is as follows:

- Reading Comprehension - Making sufficient progress to meet goal
- Written Language Content – Achieved
- Speech- Language Receptive Language - Making sufficient progress to meet goal
- Speech-Language Expressive Language - Achieved
- Physical Education - Making sufficient progress to meet goal
- Fine Motor (January 27, 2025) - Making sufficient progress to meet goal

There is documentation that the goals are reported and measured as required by the IEP.

- Reading Comprehension - Making sufficient progress to meet goal
  - Actual Results Achieved: % Accuracy



- “[The student] is making sufficient progress towards his Reading Comprehension goal given modified materials, repeated practice opportunities, and scaffolding of supports. Specifically, weekly reading comprehension assignments (i.e. Giant Pandas) indicate that he can answer questions when given modified materials with visual and verbal support. Other data sources such as his program binder indicate he can answer WH questions when given informational text, repeated practice opportunities, a field of options with visual supports. This goal is currently being adjusted for new IEP.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the level of accuracy required by the goal.

- Communication - Making sufficient progress to meet goal
  - Actual Results Achieved:
  - “Given visual supports, [the student] is making progress towards his communication goal. [The student] has been able to respond to questions on 2 out of 3 trials (yes/no questions with visuals, what is next on your schedule?, What is First on your schedule?). [The student] is currently working on increased exchanges and increased verbal output when responding to questions.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the level of accuracy required by the goal.

- Community Based Instruction - Making sufficient progress to meet goal
  - Actual Results Achieved: % increase
  - “Given prompting and adapted materials (i.e. visual shopping list), [The student] is making progress on his CBI goal as demonstrated on his weekly trips to the grocery store. [The student] continues to require verbal prompts and adult proximity in the community/grocery store. He is able to locate and retrieve items from shelves with no more than 1 prompt and he remains safe in the community with no more than 1 prompt. [The student] occasionally skips ahead but can be re-directed back to the group.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the level of accuracy required by the goal.

- Math Problem Solving - Making sufficient progress to meet goal
  - Actual Results Achieved: % Accuracy
  - “[The student] is making progress on his math goal given pictures, manipulatives and scaffolding of supports. Specifically, when given addition problems within 10 on classroom-based assignments, [the student] is able to solve addition problems with picture supports (3 trials correct). He requires verbal prompting to count on to a given number (i.e. on his money template, he could count a 5 dollar bill and two 1 dollar bills but needed verbal prompting to count on 2 trials) When given subtraction problems within 10, [the student] is able to solve the problems with picture supports and verbal prompting to follow problem solving steps. This goal is being adjusted for his new IEP.”

The progress toward this goal is not reported as required by the IEP. It does not reflect the level of accuracy required by the goal.

## **DISCUSSION AND CONCLUSION:**

An IEP must include a statement of measurable annual goals that includes a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided (34 CFR § 300.320).

Based on the Findings of Fact #28- #32, MSDE finds that the MCPS has not ensured that the student's progress towards achieving the annual IEP goals was measured in the manner required by the IEP, since January 2024, in accordance with 34 CFR § 300.320. 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.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **Student-Specific**

By April 28, 2025, MSDE requires the MCPS to provide documentation that the school system has:

- Convened an IEP team meeting and determined the amount and nature of compensatory services or other remedies to redress the violations herein and developed a plan for the provision of those services within one year of the date of this Letter of Findings.
- Reviewed the student's progress reports for the 2024-2025 school year that have not been reported as required by the goal and make the necessary corrections. Review the reported to progress to determine whether the student is making sufficient progress to meet the goals, and if not, convene an IEP team meeting to discuss changes, as appropriate.

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.

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<sup>1</sup> 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 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.

<sup>2</sup> MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

## School-Based

MSDE requires the MCPS to provide documentation by April 28, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the development and implementation of the IEP, the provision of IEP documents at least five business days before the scheduled meeting, reporting the progress toward IEP goals as required by the IEP, and the timely conducting of the annual review under the IDEA. These steps must include staff development.

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 for 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](mailto:Tracy.Givens@maryland.gov). Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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