

February 15, 2024



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

RE: [REDACTED]
Reference: #24-110

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

ALLEGATION:

On December 22, 2023, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of her son, 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) with respect to the above-referenced student.

MSDE investigated the allegation that the MCPS has not ensured that the student has been provided with the special education instruction and related services required by the Individualized Education Program (IEP) since the start of the 2023- 2024 school year, in accordance with 34 CFR §§300.101 and .323. Specifically, the allegation was that the student is not provided with the use of his supplementary aids and services outlined in his IEP.

BACKGROUND:

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

FINDINGS OF FACTS

1. The student’s IEP in effect at the start of the 2023-2024 school year was amended on August 29, 2023. The IEP reflects identified needs in the areas of language and literacy, mathematics, social foundations, and fine motor. The IEP includes goals designed to target and address these identified needs within the same areas. The IEP requires that the student be provided with three hours of

specialized instruction daily inside the general education classroom, 30 minutes of occupational therapy (OT) per week outside of the general education classroom, and one hour per week of speech and language therapy outside of the general education classroom as a related service. The IEP also reflects that the student requires supports to target his IEP goals and objectives in academic and non-academic areas, including classroom learning behaviors/independent skills, such as arrival/dismissal, lunch, toileting, transitions, as well as academic areas such as math, reading, and written language.

2. The August 29, 2023, IEP requires the student to be provided with instructional support, program modifications, social/behavioral supports, physical/environmental supports, and support from the special education classroom teacher, the general education teacher, the IEP team, and instructional assistant to access a modified general education curriculum. The IEP further reflects that the student requires the following supports: timers, repetition of directions, picture schedule, use of highlighters during instruction and assignments, social stories, adult support, preferential seating, opportunities for movement breaks, alternate ways for the student to demonstrate learning, sentence starters, frequent reminders, sentence strips, first/then visuals, and immediate feedback.
3. On October 10, 2023, the IEP team met to review and revise, as appropriate, the student's IEP.
4. The reports of the student's progress dated October 31, 2023, reflect that the student was making sufficient progress to meet his fine motor, language and literacy - written language, language and literacy - speech and language, social foundations, and math goals.
5. In November 2023, the student began participating in a lunch bunch with his peers to work on his social skills.
6. On December 6, 2023, a reevaluation IEP team meeting was held. The Prior Written Notice (PWN) from that meeting reflects that the IEP team determined that psychological, educational, speech/language, and OT assessments were necessary to determine the student's present levels of performance and assist in making programming recommendations. During the meeting, the IEP team proposed to have a parallel observation between an educational consultant and a [REDACTED] staff member to collect information on the student's performance within the classroom. The complainant requested the IEP team to convene another meeting to discuss the student's current IEP, share strategies to support the student, ask questions, and discuss his progress.
7. On December 21, 2023, the IEP team met at the request of the complainant to discuss the implementation of the current IEP, the need for additional training for support staff, and a request for additional hours of 1:1 support for the student. During the meeting, the complainant and educational consultant expressed concerns about the student's need for "attention and compliance", lack of student participation, the school's "lack of lesson pre-planning for the student, and implementation of supports." The school-based member shared that the student was "beginning to participate when called on using calling sticks" and is showing an "increase in participation during centers." The IEP team proposed for the instructional specialists to observe the student during the last week of January and to collaborate with the student's private ABA therapist to create a "better reward system and strategies to help motivate [the student]."

8. The reports of the student's progress dated January 26, 2023, reflect that he was making sufficient progress to meet his fine motor, language and literacy - speech and language, social foundations, and math goals. However, he did not make progress in his language and literacy - written language goal.
9. On February 12, 2024, the IEP team met to review and revise, as appropriate, the student's IEP. During the meeting, the IEP team proposed to update the student's present level of performance to include assessment scores from recent DIBELS and MAP assessments. The IEP team discussed toilet training as the student is almost toilet trained, proposed for the student to receive an autism specialist observation in addition to the institutional specialist observation conducted on January 31, 2023, and proposed increased 1-1 support and Autism training for the paraeducator. The IEP team discussed the significant progress the student has made on his IEP goals, in the classroom setting, and in his math and reading test results. The team also reported that the student's skills continue to improve in the areas of OT and have shown improvement since his return to school from a family trip during the month of January. Additionally, the IEP team proposed to continue the collaboration with the private ABA therapist, and the student will continue to participate in the school's lunch bunch.
10. There is documentation of the provision of the accommodations as required by the IEP.
11. There is documentation that the student received speech and language services during the 2023- 2024 school year, as required by his IEP. There is documentation of the speech pathologist providing support inside of the classroom setting when the student refused to leave the classroom.
12. There is documentation that the student received OT services during the 2023- 2024 school year, as required by his IEP. There is documentation of the occupational therapist providing support inside of the classroom setting when the student refused to leave the classroom.

CONCLUSIONS

ALLEGATION #1: PROVISION OF SPECIAL EDUCATION INSTRUCTION AND ACCOMMODATIONS

Based on the Finding of Fact #1- #12, MSDE finds that MCPS provided the student with the special education instruction and related services required by the IEP, specifically the use of his supplementary aids and services, since the start of the 2023- 2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur.

TIMELINE:

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 (15) 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. 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/Special Education Services

ALH/sj

c: Ms. Monique Felder, Interim Superintendent, MCPS
Ms. Diana K. Wyles, Associate Superintendent, MCPS
Ms. Eve Janney, Compliance Specialist, MCPS
Mr. Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], Principal, MCPS
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Ms. Stephanie James, Complaint Investigator, MSDE