

March 3, 2025

[REDACTED]

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

Re: [REDACTED]
Reference: #25-207

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.

ALLEGATION:

On January 3, 2025, 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 School (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the allegation that the MCPS did not ensure that progress was measured as required by the Individualized Education Program (IEP) since January 2, 2024, in accordance with 34 CFR § 300.320.

BACKGROUND:

The student is 11 years old and is 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. The IEP in effect in January 2024 was developed on April 19, 2023. The IEP includes goals in the following areas: math calculation, reading vocabulary, speech-language expressive language, speech-language pragmatics, speech language receptive language, written language mechanics, social/emotional/behavioral, and fine motor.

The IEP reflects that progress reports towards achieving annual IEP goals will be issued quarterly.

2. There is documentation that the progress reported on January 26, 2024, and February 6, 2024, for the reading vocabulary, reading comprehension, speech-language receptive language, speech-language pragmatics language, speech-language expressive language, social/ emotional/ behavioral (goal #1) and occupational therapy goals, are measured as required.

3. The math calculation goal reflects “By the end of this IEP cycle, when provided with manipulatives, systematic instruction (faded errorless prompts, differential reinforcement), and opportunities for repetition, [the student] will understand the relationship between numbers and quantities by independently building sets on a ten frame for numbers 1-20, compare two numbers within 10 to determine which has more or less, verbally identifying numbers 20-40, and using manipulatives to add within 10 with 100% accuracy for 3 consecutive days and a 7 day retention check.”
 - There is no identified method of measurement.
 - The progress reported on February 11, 2024, reflects “in this marking period [the student] worked on counting 13 but misses 11.”

Progress is not measured as required.

4. The written language mechanics goal reflects “By the end of this IEP cycle (April 2024), given paper/whiteboard modeling, writing utensils (ex. erasable marker, jumbo crayon, pencil), and prompt hierarchy (verbal, visual, gestural and/or physical prompting), [the student] will demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing by independently tracing letters, his name and sentences, and copying letters, his name and short sentences for 3 consecutive days and a 7 day retention check.”
 - The method of measurement is informal procedures cold probe data other permanent product.
 - The progress reported on February 5, 2024, reflects, “He is able to trace anything, he is able to copy anything as long as not a sentence.”

Progress is not measured as required. The progress reported does not reflect the required time period, nor does it include a retention check as required by the IEP.

5. The social/emotional/behavioral goal reflects “By the end of the IEP cycle (April 2024), with faded adult models, rehearsal and repetition of calming strategies, visual cues such as emotion cards and a visual menu of self-calming/self-regulation strategies, [the student] independently will identify his feeling (emotion), choose a taught strategy from a choice of three options on a visual menu and implement the strategy in 4 of 5 weekly opportunities across school settings and staff as measured by direct observation.”
 - The method of measurement is observation record.
 - The progress reported on February 5, 2024, reflects “[the student] can do 8 out of 15 emotions with visuals cues, and when asked how do you feel, he’s not yet initiated his feelings, still need a visuals cue.”

Progress is not measured as required. The progress reported does not reflect the number of trials attempted as required by the IEP.

6. The IEP developed on May 20, 2024, includes goals in the following areas: early math literacy, listening comprehension, math calculation, reading phonics, reading vocabulary, speech-language expressive language, speech-language pragmatics, speech-language receptive language, written language expression, social emotional/behavioral, and fine motor. The IEP reflects that progress reports towards achieving annual IEP goals will be issued quarterly.
7. There is documentation that the progress reported on June 10, 2024, for early math literacy, listening comprehension, math calculation, reading phonics, reading vocabulary, speech-language expressive language, speech-language pragmatics, speech-language receptive language, written language expression, social emotional/behavioral, and fine motor were measured as required by the IEP.

8. There is documentation that the progress reported on August 1, 2024, speech- language pragmatics language, math calculation, and reading vocabulary goals were measured as required by the IEP.
9. The social emotional/behavioral goal reflects “By May 2025, given a structured environment, reinforcement for appropriate behaviors, and reminders of classroom expectations, [the student] will decrease disruptive behaviors defined as throwing items, hitting others, crying or yelling by 20% as measured by teacher data over 2 consecutive weeks.”
 - The method of measurement is classroom-based assessment: teacher data sheet.
 - The progress reported on August 1, 2024, reflects “[the student] can identify emotions when presented with pictures in a field of 8 choice.”

Progress is not measured as required. The progress reported does not reflect data over two consecutive weeks as required by the IEP.

10. There is documentation that the progress reported on November 10, 2024, for early math literacy, listening comprehension, math calculation, reading phonics, reading vocabulary, speech-language expressive language, speech-language pragmatics, speech-language receptive language, written language expression, social emotional/behavioral, and fine motor goal were measured as required by the IEP.
11. There is documentation that the progress reported on January 28, 2025, for early math literacy, listening comprehension, reading phonics, reading vocabulary, speech-language expressive language, speech-language pragmatics, speech-language receptive language, written language expression, social emotional/behavioral, and fine motor goals were measured as required by the IEP.
12. The math calculation goal reflects “By May 2025, given visual supports, manipulatives, opportunities to practice, and reinforcement, [the student] will use equivalent fractions as a strategy to add and subtract fractions by creating and adding sets using numbers 0-5 and identifying numbers 20-30 with 100% accuracy for 3 consecutive days as measured by teacher data sheet.”
 - The method of measurement is classroom-based assessment: teacher data sheet.
 - The progress reported on January 28, 2025, reflects “2 out of 5 trials: [the student] is making progress on writing the words after selecting the correct choice with aid of a model, also [the student] has worked on tracing the month, the days, and his last name during normal work time.”

Progress is not measured as required as there is no indication of the student’s accuracy on the trials.

DISCUSSION AND CONCLUSION:

The IEP must include 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 (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided. 34 CFR § 300.320.

Based on the Findings of Fact #1, #3 through #5, #9, and #14, MSDE finds that the MCPS has not ensured that the student’s progress was measured in the manner required by the IEP, since January 2024, in accordance with 34 CFR §§ 300.320 and .323. Therefore, MSDE finds a violation.

CORRECTIVE ACTIONS AND TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR § 300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable timeframes below to ensure that noncompliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

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

Student-Specific

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

- a. Ensured that the student's progress towards obtaining annual goals are measured in the manner required by the IEP; and
- b. Convened and determined whether the violation identified in this Letter of Findings had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact; it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

Systemic

By August 29, 2025, the MCPS must conduct system-wide professional development reflecting the correct way to align the reporting of progress to the requirements of the goal. MSDE has developed several professional learning and technical assistance resources that can assist the MCPS with this task. The Performance Support and Technical Assistance Branch (PTSA) and the Dispute Resolution Branch are available to support the MCPS in developing and implementing this professional development. Following the implementation of this professional development, the MCPS must conduct internal monitoring for 50 randomly selected students in 50 different, randomly selected schools to ensure that their progress reports align to the requirements of their goals. The monitoring report is due to MSDE on or before December 1, 2025.

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.

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.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason why the documentation was not made available during the investigation. Requests for reconsideration must be sent to Tracy Givens, Section Chief, Dispute Resolution Branch, at Tracy.Givens@maryland.gov. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The parties maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of a free appropriate public education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ra

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