

March 13, 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: #25-217

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 February 13, 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 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 ensure that the student was provided with a service plan following parental placement at the [REDACTED] since January 2024, in accordance with 34 CFR § 300.132.
2. The MCPS has not developed and implemented an Individualized Education Program (IEP) that addressed the student's identified needs since August 2024, in accordance with 34 CFR §§ 300.101, .323 and .324. Specifically, you allege that the student has not received the occupational therapy and speech-language therapy services required by the IEP, there is no present level data included in the IEP, and the secondary transition data is incomplete.
3. The MCPS has not ensured that the IEP contains appropriate measurable goals aligned with the present levels of academic achievement and functional performance (PLAAFP) since August 2024, in accordance with 34 CFR § 300.320.
4. The MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since January 2025, in accordance with 34 CFR § 300.613. Specifically, you allege that you have not received the requested speech therapy logs.

BACKGROUND:

The student is 16 years old and is identified as a student with Specific Learning Disability (SLD) 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 July 19, 2022, the complainant emailed the MCPS staff requesting that the student's transcript be sent to the [REDACTED]. On July 22, 2022, MCPS staff emailed the complainant informing her that the student's transcript was sent to the [REDACTED] and requested that the MCPS staff, and the school counselor be "updated on any changes." On August 18, 2022, the complainant emailed MCPS staff stating that the student would "likely" be reenrolled in MCPS for the 2023-2024 school year and requested that the student's records not be "completely wiped out." The email requested that the complainant be informed of how to keep "[the student's] current IEP archived."¹
2. On April 12, 2024, the complainant emailed the MCPS staff sharing that the student was currently a sophomore at the [REDACTED] and would like to transfer to [REDACTED] for the 2024-2025 school year.
3. On April 16, 2024, the MCPS staff emailed the complainant stating that things were "in-order" for the student to be enrolled in [REDACTED] for the 2024-2025 school year.
4. There is no documentation that the MCPS offered the student with a service plan while she was enrolled at the [REDACTED].
5. On August 23, 2024, the IEP team convened to conduct the student's annual review. The prior written notice (PWN) generated after the meeting reflects the description of evaluation procedures, tests, records, or reports the school district used as a basis for the proposal or refusal states "The IEP team determined that [the student] will be re-evaluated in December in order to gather additional data to determine eligibility. Her IEP present levels, accommodations, supplementary aids, goals, and services, are being carried over from her last MCPS IEP from May of 2022."

The PWN reflects that the MCPS proposed to implement the IEP developed at the meeting and the IEP would have goals in "Reading Comprehension, Math Problem Solving, Written Language Expression, Speech and Language-expressive and receptive." The student was also eligible for three, 45-minute sessions of speech-language services monthly. "The IEP team proposed to meet again at the end of the semester for a reevaluation planning IEP meeting to update the IEP with the most current data, as [the student] has not attended MCPS in two years."

6. The August 23, 2024, IEP reflects the student's primary disability as SLD with math problem solving, reading comprehension, speech-language articulation, speech-language expressive language, speech-language receptive language, and written language expression as the areas affected by the disability.

¹ Although the information regarding the student enrolling in the [REDACTED] is beyond the investigative purview of MSDE, this information is included in the Letter of Findings because it demonstrates that MCPS was aware that the student enrolled in the [REDACTED] and planned to reenroll in the MCPS.

PLAAFP data reflects the student is performing on the following instructional grade levels:

- Reading comprehension – grade seven
- Math problem solving – grade eight
- Written language expression – grade eight
- Speech-language articulation – below age expectation
- Speech-language receptive language – below age expectancy
- Speech-language expressive language – below age expectancy

PLAAFP data in the IEP is as follows:

- Reading comprehension: “[The student] is returning to MCPS after attending private school. Data from [the student’s] 2022 IEP (MAP-R, teacher reports, work samples) indicates needs in reading. The IEP team will collect data in Fall 2024 and return for a reevaluation planning IEP team meeting before the end of the semester to update the IEP with more current data.”
- Math problem solving: “[The student] is returning to MCPS after attending private school. Data from [the student’s] 2022 IEP (MAP-M, teacher reports, work samples, report card data) indicates needs in math problem solving. The IEP team will collect data in Fall 2024 and return for a reevaluation planning IEP team meeting before the end of the semester to update the IEP with more current data.”
- Written language expression reflects the following information: “[The student] is returning to MCPS after attending private school. Data from [the student’s] 2022 IEP (work samples, report card data) indicates needs in written language expression. The IEP team will collect data in Fall 2024 and return for a reevaluation planning IEP team meeting before the end of the semester to update the IEP with more current data.”
- Speech-language articulation PLAAFP data reflects the following: “Information from previous IEP dated May 2022 GFTA-3: Sounds-in-Words: 40 / Sounds-in-Sentences: 63) Needs in production of /r/, /r/-blends, and vocalic /r/ in all contexts / Articulation Proficiency Probe: [the student] was unable to produce /r/, /r/- blends, or vocalic /r/ at the word, phrase, or sentence level / Stimulability: [the student] was not stimulable for production/approximation of /r/ in any context, given verbal and placement cues / Oral motor exam: Needs noted coordination of lips and tongue / Speech sample: Speech intelligibility rated at 89% in known context and 96% in unknown context, impacted by distortions of /r/, /r/-blends, and vocalic /r/, as well as some weak articulatory contacts.”
- Speech-language receptive language PLAAFP data reflects the following: “Information taken from Previous IEP dated May 2022 May 20202: She has improved identifying main idea concepts and making predictions from a text she has read. [The student] has progressed with answering "how" and 'why questions along with explaining her thinking 75% acc. Making predictions and inferences from text 65% acc. She continues to have difficulty with identifying details from a text to support her claim, along with making inferences from a text.”
- Speech-language expressive language PLAAFP data reflects the following: “Information taken from Previous IEP dated May 2022 May 2022: [The student] continues to make steady progress with speech therapy objectives. Presently she is able to express her thinking using grammatically correct sentences with 80% acc. Often her speech is slow and choppy, yet intelligible. [The student] continues to have difficulty verbally expressing her thoughts with complex ideas and abstract information mainly due to not attending to the thread of the conversation.”

The secondary transition data in the IEP does not provide a current level of performance, but the summary of assessment findings in employment and education/training reflect that the student completed an "MCPS Secondary Transition HS Interview" on August 23, 2024, and a review of the "MCPS SR3 Card... shows a diploma bound courseload with college preparatory coursework. She has a World Language (French) completer. They do not yet have a GPA and have earned 51.5/75 SSL hours." The summary of assessment findings in independent living reflects information from the transition interview, MCPS SR3 Card and a parent interview conducted on August 23, 2024. The secondary transition data includes goals and transition activities in employment, education, and independent living. The secondary transition agency linkage reflects that it is anticipated that the student meets the initial eligibility criteria for the Division of Rehabilitation Services (DORS), but does not meet the initial eligibility criteria for the Developmental Disabilities Administration (DDA), the Behavioral Health Administration (BHA) or the Division of Workforce Development & Adult Learning Maryland Department of Labor (MDL).

The IEP includes the following IEP goals:

- Speech-Language Expressive Language: "By August 22, 2025, [the student] will use learned expressive language skills to communicate by answering "why" questions, stating cause and effect, and making predictions in 4 out of 5 opportunities as documented by performance data."
 - Method of Measurement: Observation Record
 - Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include the criteria for mastery.

- Speech-Language Receptive Language: "By August 22, 2025, [the student] will be able to comprehend key concepts from classroom information in 4 out of 5 trials as documented by performance data."
 - Method of Measurement: Observation Record
 - Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include the criteria for mastery and it does not include a measurable behavior.

- Speech-Language Articulation: "By August 22, 2022, [the student] will use target sounds /r/, /r/- blends, and vocalic /r/ in all contexts in carrier phrases with 90% accuracy as documented by performance data."
 - Method of Measurement: Observation Record
 - Criteria (Mastery and Retention) With: 90 % Accuracy

This goal is not measurable as written. It does not include the criteria for retention.

- Reading Comprehension: "By August 2025, given grade level text, fading adult support with reading comprehension strategies (previewing vocabulary, highlighting, guided reading questions when appropriate, chunking and summarizing), [the student] will cite strong and thorough textual evidence to support analysis of what the text says explicitly and well as inferences drawn from the text with 80% accuracy in 4 out of 5 measurable opportunities."
 - Method of Measurement: Other: Informal Teacher Feedback, Report Card Grades, Assignment/Assessment Grades
 - Criteria (Mastery and Retention) With: with 80% accuracy in 4 out of 5 measurable opportunities

- Math Problem Solving: “Algebra 2: By August 2025, given direct instruction on solving problems and relevant vocabulary, extended time, a calculator, copies of class notes, opportunities for practice, models, examples, [the student] will collect, organize, analyze and present data by displaying it visually in charts, tables and graphs and communicate solutions to mathematical and real-world problems using patterns, functions and algebra with 80% accuracy in 4 out 5 measurable opportunities.”
 - Method of Measurement: Other: Informal Teacher Feedback, Report Card Grades, Assignment/Assessment Grades
 - Criteria (Mastery and Retention) With: 80% accuracy in 4 out 5 measurable opportunities
- Written Language Expression: “By August 2025, given a writing assignment, fading teacher support, criteria for success/written directions, graphic organizers, access to a word processor, extended time and notes, outlines, and instructions, and an editing checklist, [the student] will write to effectively state a claim and offer insightful thinking and develop the claim, using clear reasoning and well-chosen evidence in a well-organized, focused and coherent manner with 80% accuracy in 4 out of 5 measurable opportunities.”
 - Method of Measurement: Other: Report Cards, Assignment/Assessment Grades, Writing Samples, Informal Teacher Feedback
 - Criteria (Mastery and Retention) With: 80% accuracy in 4 out of 5 measurable opportunities

The IEP required three, 45-minute sessions of speech-language therapy monthly as a related service. “[The student] will receive speech services 3 times a month for 45 minutes in a co-taught class, resource class, or outside the general education setting.”

The IEP does not require occupational therapy (OT) as a related service.

7. The student’s progress reported toward the IEP goals on November 1, 2024, reflects that the student was making sufficient progress to meet the goal in the areas of speech-language articulation, speech-language receptive language, and speech-language expressive language.

There is no progress reported for reading comprehension, math problem solving, and written language expression.

8. On November 19, 2024, the IEP team reconvened to conduct reevaluation planning for the student. The PWN generated after the meeting reflects the IEP team reviewed “Parent Input, student Input, general education teacher [input], 2024-24 Report Card Data, 2024-25 Curriculum Based Assessments, fall 2024 Map-R scores, fall 2024 Map-M scores, [and] 2019 Woodcock Johnson IV Scores” in making its determinations. The IEP team decided to conduct updated speech-language expressive and receptive language, psychological, and educational assessments “to determine [the student’s] present level of academic achievement and developmental needs.”
9. The amended IEP reflects updated secondary transition employment data as the following: a “Synergy Education Platform Student Service-Learning Review” was conducted on August 23, 2024, in addition to the student’s volunteer efforts. Updated secondary transition education/training data reflects additional information on the student’s volunteer experiences, supports and accommodations that the student feels will be useful in college, a note that the student has not yet

taken any state standardized assessments, and an explanation that a record review “shows that most grades earned in previous classes were As and Bs.” Updated secondary transition independent living data reflects how the student “uses supports and accommodations on a regular basis in academic classes and advocates for needs, often with preferred adults.” The IEP also reflects that the student’s employment training and academic transition activities were not yet initiated as of November 1, 2024, while the independent living transition activity was partially completed.

The IEP PLAAFP data, IEP goals, and related services continued.

10. On January 9, 2025, the complainant emailed MCPS staff requesting a copy of the student’s speech-language service log. There is no documentation that the complainant received the logs as requested.
11. The student’s progress reported toward the IEP goals on January 28, 2025, reflects that the student was making sufficient progress to meet the goal in the areas of reading comprehension, math problem solving, written language expression, and speech-language expressive language. The student achieved the speech-language receptive language goal, and the speech-language articulation goal was not yet introduced. The speech-language articulation goal reflects “[The student] recently had a tongue tie release surgery. The articulation goal was not addressed in marking period 2 because her tongue tie needed to be addressed before addressing the /r/ sound as her tongue was not physically able to move to the correct location to produce the /r/.”
12. There is documentation that the student is due three make-up sessions of speech-language therapy for December 16, 2024, when the speech-language therapist was absent, and October 31, 2024, and October 24, 2024, when the student was unavailable, when the student declined services to complete schoolwork, and to study for an exam respectively.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

PROVISION OF A SERVICE PLAN

A service plan must be developed and implemented for each eligible private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part (34 CFR § 300.132).

In this case, the MCPS was made aware that the student was enrolling at the [REDACTED] in July 2022, with the likelihood to reenroll in the MCPS for the 2023-2024 school year, however, a service plan was not offered to the student at that time. There is no documentation that the MCPS ever developed a service plan for the student while she attended the [REDACTED].

Based on Findings of Fact #1 to #4, MSDE finds that the MCPS did not ensure that the student was offered a service plan following parental placement at the [REDACTED] since January 2024, in accordance with 34 CFR § 300.132. Therefore, MSDE finds a violation.

ALLEGATION #2

DEVELOPMENT OF THE IEP

Present Level Data

The PLAAFP statement should include the following components: a description of the student's current academic achievement, strengths and weaknesses, functional performance details including a narrative and data when applicable, information about how their disability impacts their involvement and progress in the general education curriculum (34 CFR § 300.320), baseline data to measure progress, and input from caregivers and service providers (MARYLAND STATEWIDE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS GUIDE, Early Intervention and Special Education Services, March 2024).

In this case, the student's August 2024 IEP included PLAAFP data that reflected information from the student's 2022 IEP because the student was just returning to the MCPS. However, the November 19, 2024, IEP meeting PWN reflects that the IEP team considered 2024 report card data, 2024-2025 curriculum-based assessments, fall 2024, Map-Reading scores and 2024 Map-Math scores, but did not use this information to update the PLAAFP data in the student's IEP.

Based on Findings of Fact #5, #6, #8, and #9, MSDE finds that the MCPS has not developed an IEP that includes PLAAFP data that addressed the student's identified needs since November 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, MSDE finds a violation.

Secondary Transition Data

In this case, the student's secondary transition data reflects information obtained from a student interview, parent interview, record review, a MCPS SR3 card review, completed agency linkage data. The information was updated in November 2024 to reflect progress toward secondary transition activities and additional information from a "synergy education platform student service-learning review."

Based on Findings of Fact #6 and #9, MSDE finds that the MCPS has developed and implemented an IEP that includes secondary transition data that addressed the student's identified needs since August 2024, in accordance with 34 CFR §§ 300.101, .323 And .324. Therefore, MSDE finds no violation.

Speech-Language

In this case, the IEP requires goals in speech-language articulation, speech-language receptive language, and speech-language expressive language. However, the goals were not measurable as written. The IEP also required the student to receive three, 45-minute sessions of speech-language services monthly. Documentation reflects the student is owed three sessions of speech-language services.

Based on Findings of Fact #6 to #9, #11 and #12, MSDE finds that the MCPS has not developed and implemented an IEP that addressed the student's identified needs speech-language needs since August 2024, in accordance with 34 CFR §§ 300.101, .323 And .324. Therefore, MSDE finds a violation.

Occupational Therapy

In this case, the IEP did not require OT for the student.

Based on Findings of Fact #6 and #9, MSDE finds that the student's IEP did not require OT services. Therefore, the MCPS was not required to develop and implement an IEP addressed the student's identified OT needs since August 2024, in accordance with 34 CFR §§ 300.101, .323 and .324. Therefore, MSDE finds no violation.

ALLEGATION #3

MEASURABLE ANNUAL GOALS

In this case, the student's reading comprehension, math problem solving, and written language expression goals are measurable, however, the speech-language goals are not.

Based on Findings of Fact #6, #7, #9, and #11, MSDE finds that the MCPS has not ensured that the IEP contains measurable speech-language goals since August 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Progress Reporting

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).

In this case, the November 1, 2024, progress report did not reflect the student's progress toward the reading comprehension, math problem solving, and written language expression goals.

Based on Finding of Fact #7, MSDE finds that the MCPS has not provided a report of progress towards achieving the reading comprehension, math problem solving, and written language expression IEP goals as required by the IEP in November 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

ALLEGATION #4

ACCESS TO STUDENT RECORDS

The public agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made. The right to inspect and review education records under this section includes: the right to a response from the public agency to reasonable requests for explanations and interpretations of the records; and the right to request that the agency provide copies of the records containing the information. (34 CFR § 300.613).

In this case, the complainant requested the student's speech-language logs on January 9, 2025. The 45-day timeline elapsed on February 23, 2025.

Based on Finding of Fact #10, MSDE finds that the MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since January 9, 2025, in accordance with 34 CFR § 300.613. 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.² 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.³ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

By May 14, 2025, MSDE requires the MCPS to provide documentation that the school system has:

- Provided the student with the required speech-language services, provided the parent with the speech-language log, updated the present level data and speech-language goals in the IEP; and
- 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.

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.

School-Based

MSDE requires the MCPS to provide documentation by May 14, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the development and implementation of an IEP, provision of related services, and the provision of parental access to student records under the IDEA. These steps must include staff development.

² 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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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

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

Sincerely,

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

ALH/ebh

c: Dr. Thomas W. Taylor, Superintendent, MCPS
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