


March 13, 2025




Dr. Kendy Anderson
Calvert County Public Schools
Director of Special Education
1305 Dares Beach Road
Prince Frederick, Maryland 20678

RE: 
Reference: #25-223

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 January 16, 2025, MSDE received a complaint from , hereafter “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Calvert County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The CCPS did not follow proper procedures when conducting a reevaluation of the student in January 2024 in accordance with 34 CFR §§ 300.303-.306 and COMAR 13A.05.01.06.
2. The CCPS did not follow proper procedures when developing the student’s Individualized Education Program (IEP) since May 2024, in accordance with 34 CFR §§ 300.320 and .324. Specifically, you allege the IEP does not address the student’s identified needs in the areas of adaptive (functional), fine motor, writing, and anxiety.
3. The CCPS did not ensure that the IEP includes transition services since May 2024, as required by 34 CFR § 300.320 and COMAR 13A.05.01.07.
4. The CCPS did not provide prior written notice of the IEP team's decisions from an IEP team meeting held in May 2024 in accordance with 34 CFR § 300.503.
5. The CCPS did not follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction during the IEP team meeting held on December 19, 2024, in accordance with 34 CFR §§ 300.114 and .116.

BACKGROUND:

The student is 13 years old and is identified as a student with Autism under the IDEA. The student attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

ALLEGATION #1

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

1. On December 7, 2023, CCPS generated a Notice of Individualized Education Program (IEP) Team Meeting for a meeting scheduled on January 26, 2024. The purpose of the meeting was to review existing information to determine the need for additional data, review and, if appropriate, revise the IEP, consider reevaluation, determine necessary services, and/or assess continued eligibility.
2. On January 26, 2024, a reevaluation planning IEP team meeting was held to assess whether the student required additional assessments to help the IEP team determine if the student continued to qualify for special education services. While there is no documentation indicating that a Prior Written Notice (PWN) was issued to document the IEP team's decisions, there are abbreviated handwritten notes from an IEP team member that provide some context for the discussion during the meeting.
3. The handwritten notes dated January 26, 2024, reflect that the IEP team reviewed the student's progress reports, existing data, and input shared by the parent. The notes also reflect that the student was making progress in speech, ELA, and math. Additionally, the notes indicate that the assistive technology (AT) consult should be removed from the student's IEP.

The handwritten notes further reflect that the IEP team discussed the psychological assessment the student received in 2021, as well as speech-language services. The team determined that no additional assessments were needed at that time and that the student will continue to receive services under the disability code of Autism.

4. While there is documentation that indicates an Eligibility Criteria Form was completed for the student on January 26, 2024, reflecting that the student met the criteria for Autism, the data recorded on the form does not match the data referenced in the handwritten notes. Additionally, the handwritten notes do not specify what the "existing data" includes. The Eligibility Criteria Form states that the IEP team relied on a psychological assessment completed by CCPS in January 2024 and a speech-language assessment completed by CCPS in January 2024.
5. There is no documentation the IEP team updated the IEP to reflect the eligibility determination made on January 26, 2024.
6. The CCPS acknowledged that a PWN was not developed and provided to the parent after a meeting held on January 26, 2024.

DISCUSSION AND CONCLUSION:

A public agency must ensure that a re-evaluation of each child with a disability is conducted if the public agency determines that the educational or related service's needs, including improved academic achievement and functional performance, of the child warrant a reevaluation, or if the child's parent or teacher requests a reevaluation (34 CFR § 300.303).

As part of the reevaluation, the IEP team must review existing data, including evaluations and information provided by the parents, current classroom-based, local, or State assessments, classroom-based assessments, and observations by teachers and related service providers.

On the basis of that review, and input from the student's parents, the team must identify what additional data, if any, are needed to determine whether the student continues to meet the criteria for identification as a student with a disability and whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals in the IEP (34 CFR § 300.305 and COMAR 13A.05.01.06).

If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the public agency must notify the child's parents of that determination and the reasons for the determination; and the right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. The public agency is not required to conduct the assessment unless requested to do so by the child's parents (34 CFR §300.305).

In this case, it is unclear what updated data was used to determine the student's eligibility. Additionally, the IEP team did not use the data from the continued eligibility determination to update the IEP within 90 days of the reevaluation planning and continued eligibility determination.

Based on Findings of Fact #1 through #6, and #9, MSDE finds that the CCPS did not follow proper procedures when conducting a reevaluation of the student in January 2024, in accordance with 34 CFR §§ 300.303-.306 and COMAR 13A.05.01.06. Therefore, MSDE finds a violation.

FINDING OF FACT:

ALLEGATIONS #2 and #5

DEVELOPMENT OF THE IEP AND PLACEMENT DETERMINATION

7. On April 9, 2024, CCPS generated a Notice of IEP Team Meeting for a meeting scheduled on May 22, 2024. The purpose of the meeting was to review and revise the IEP if appropriate, consider Extended School Year (ESY), and consider postsecondary goals and transition services.
8. On May 22, 2024, the IEP team convened to conduct an annual review of the IEP. While there is no documentation indicating a PWN was issued to document the IEP team's decisions, there are abbreviated handwritten notes from an IEP team member that provide some context for the discussion during the meeting.

The handwritten notes reflect the IEP team discussed the student's progress, updated the special education considerations and services, and determined that they should remain the same.

9. The IEP developed on May 22, 2024, reflects the most recent evaluation date of January 26, 2024.
10. The May 22, 2024, IEP reflects that the student's identified needs in the areas of math calculation, physical education, reading comprehension, reading phonics, speech-language articulation, speech-language expressive language, speech- language receptive language, self-management, and social-emotional/behavioral. The IEP includes goals addressing reading phonics, reading comprehension, math calculation, speech articulation, speech-language receptive and expressive, social-emotional, and self-management. It also reflects transitional goals in the areas of academic and employment training. In addition, the IEP reflects that the student participates in alternate state assessments and follows alternate academic achievement standards. Furthermore, it reflects that he will receive a Maryland High School Certificate of Program Completion.
11. May 22, 2024, IEP requires the student to be provided with two hours and 35 minutes daily of specialized instruction outside of the general education classroom, 40 minutes per week of speech and language services outside of the general education classroom, and one hour a month of counseling services outside of the general education classroom as a related service.
12. The May 22, 2024, IEP's Continued Evaluation Eligibility Data reflects unanswered and incomplete "Existing Assessment Data" and incomplete documented data for speech-language.
13. The May 22, 2024, does not reflect a statement of the student's present levels of academic achievement and functional performance (PLAAFP).
14. The May 22, 2024, IEP does not reflect the current parental input, the student's current strengths and interests, and a current description of how his disability impacts him in the general education setting.
15. The May 22, 2024, IEP's Behavior Intervention section indicates that the student does not have a Functional Behavior Assessment (FBA) or a Behavior Intervention Plan (BIP). The previous IEP states that the student had an FBA conducted on June 4, 2021, and a BIP implemented on November 29, 2022. Additionally, the handwritten notes from the IEP meeting held on January 26, 2024, reflect that the IEP team noted the need to rewrite the BIP to address areas of need in self-management and social skills.
16. The May 22, 2024, IEP goals and objectives are unchanged from the previous IEP. The previous IEP reflects that the student was making progress toward meeting those goals.
17. The least restrictive environment (LRE) identified in the IEP reflects the team's discussion of general education, special education, and the intensive structured learning environment (ISLE) as placement options.

The IEP team determined that the student would participate in the ISLE program at [REDACTED] School, as well as in general education classes as indicated. The student was placed in an ISLE classroom to provide the best support while learning the grade-level curriculum.

18. The May 22, 2024, IEP reflects that the student continued to require AT consult as a part of the student's supplementary aids and services.

19. While the student continues to require consultative services in physical education, behavior, and speech and language, there is no documentation that the IEP team discussed the removal of the occupational therapy consult from the student's supplementary aids and services. The Continued Evaluation Eligibility Data in the area of fine motor skills reflects that the student was assessed in January 2024 through Teacher/Therapist Observations and Record Review, showing the student's independence. However, the IEP also indicates that the student demonstrates significant delays in receptive/expressive language, cognition, self-help, social/emotional/behavioral skills, self-management, and fine motor skills. There is no documentation outlining the support the student will now receive to address the delays in fine motor skills.
20. On December 19, 2024, the IEP team convened to review and revise the IEP. During the meeting, the IEP team discussed the student's progress, noting the student was progressing in some areas, particularly with teacher engagement and in non-academic subjects like PE and computer science, but still faced challenges in academic settings and in adapting to classroom environments with higher noise levels.
21. During the meeting, the complainant suggested adding a social worker consultation, considering a referral to a non-public school due to lack of progress, and updating the PLAAFPs to address the student's attention and anxiety.

The IEP team agreed to the following changes:

- Services: math and ELA services will transition to the general education setting, with 3 hours and 20 minutes of specially designed instruction per week.
- Least Restrictive Environment: The student will no longer receive instruction in the ISLE program and will spend most of his time in general education.
- Supplementary Aids and Services: Behavior specialist consultation will shift from monthly to periodic, and a social worker consultation will be added.

The PWN reflects that after reviewing input from the student, parent, special education teacher, general education teacher, and school social worker, the IEP team decided against keeping the student in the ISLE program for reading and math instruction and rejected the recommendation for non-public placement. The team concluded that the student's needs could be met in the least restrictive environment, where he would receive the necessary instruction and support for academic, social-emotional, and self-management skills in the general education setting. The IEP team agreed to reconvene later to review progress and determine the effectiveness of these changes. The PWN reflects that the parent agreed with these decisions.

22. The amended December 19, 2024, IEP reflects the IEP team's discussion of general education, special education, and the Intensive Structured Learning Environment (ISLE) as placement options. The IEP team determined that the student would participate in General Education classes. However, the IEP continued to state that, due to the student's deficits in receptive and expressive language, socialization, self-management, and readiness skills—including attention to task—the student requires a smaller class size with a greater teacher-to-student ratio. The PWN and the IEP do not specify whether this will occur in the General Education setting, as the student needs frequent and immediate feedback to follow directions both academically and socially.
23. There is no documentation that the parent requested the amended IEP after the meeting held on December 19, 2024.

24. On January 30, 2025, CCPS generated a Notice of IEP Team Meeting for a meeting scheduled on February 7, 2025. The purpose of the meeting was to review and, if appropriate, revise the IEP.
25. On February 7, 2025, the IEP team convened to review and revise the IEP as appropriate. The PWN reflects that the IEP team discussed the parents' expressed concerns about the student's academic and emotional struggles, noting his anxiety and stress about keeping up with classmates. The parent believed he would benefit from a more therapeutic environment and more than 20 minutes of speech therapy twice per week. She also shared that the student has been referred to a psychiatrist and discussed his recent [REDACTED] diagnosis with the school nurse supervisor. The teachers and specialists reported that the student engaged in class, socialized with peers, and made progress in speech, but struggled with transitions and required support. He preferred art over chorus and his distress over losing friends had been noted.
26. The February 7, 2025, PWN reflects that the IEP team approved an Independent Educational Evaluation (IEE) at public expense, scheduled a meeting with the Special Education Supervisor and Speech-Language Pathologist, agreed to correct clerical IEP errors, and added staff support to enhance the student's independence and manage his medical needs.
27. On February 14, 2025, CCPS generated a letter that informed the parents that the CCPS approved and agreed upon funding an IEE for psychological, occupational therapy, and speech-language assessments that could be used to determine eligibility for special education services.
28. The CCPS acknowledged that no information is available regarding his current performance in adaptive (functional) skills.
29. The CCPS acknowledged that no information is available regarding his current performance in written expression.

DISCUSSION AND CONCLUSION:

IEP Development

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR § 300.324).

The present levels of academic and functional performance 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 IEP does not reflect the student's most current needs, nor does it indicate that the IEP team used the most up-to-date data to make revisions.

Based on Findings of Fact #7, #8, #10 through #22, #24, #28 and #29, MSDE finds that the CCPS did not follow proper procedures when developing the student's IEP, since May 2024, in accordance with 34 CFR §§ 300.320 and .324. Therefore, MSDE finds a violation.

Placement

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

Unless the IEP of a student requires some other arrangement, the student is educated in the school setting that the student would attend if not disabled. In selecting the LRE, the public agency must consider any potential harmful effect on the student or on the quality of services that the student needs. A student with a disability is not removed from education in an age-appropriate regular classroom setting solely because of needed modifications in the general curriculum (34 CFR § 300.116 and COMAR 13A.05.01.10(c)(1)-(d)). This requirement also extends to non-academic settings. (34 CFR § 300.117).

Based on Finding of Fact #17, MSDE finds that the CCPS did follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction during the IEP team meeting held on December 19, 2024, in accordance with 34 CFR §§ 300.114 and .116. Therefore, MSDE does not find a violation.

FINDINGS OF FACT:

ALLEGATION #3

TRANSITION SERVICES

30. On April 9, 2024, CCPS generated a Notice of IEP Team Meeting for a meeting scheduled on May 22, 2024. The notice reflects the student was not invited to the IEP.
31. The May 22, 2024, IEP PLAAFP does not reflect the student received an age-appropriate transition assessment related to training, education, employment, and independent living skills. Additionally, it does not specify who interviewed the student or when the interview was conducted.
32. The May 22, 2024, IEP does not reflect the student's needs for independent living.
33. The student's transition employment goal states, "Upon exiting high school, with the support of an adult agency, [Student] would like to be employed in the theatre within the community." This goal is not measurable.

DISCUSSION AND CONCLUSION:

Transition services means a coordinated set of activities for a child with a disability that is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

The public agency must ensure the IEP includes appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services (including courses of study) needed to assist the child in reaching those goals (34 CFR §300.320).

The IDEA and the COMAR require a school system to ensure that, beginning not later than the first IEP to be in effect when a student turns fourteen years old, the IEP includes a transition plan (34 CFR §300.320 and COMAR 13A.05.01.09). When the purpose of an IEP team meeting is to consider the transition plan, the public agency must ensure that the student is invited to the IEP team meeting and, if the student is unable to attend the meeting, that the public agency takes steps to ensure that the student's preferences and interests are considered (34 CFR § 300.321 and COMAR 13A.05.01.07).

Based on Findings of Fact #30 through #33, MSDE finds that the CCPS did not ensure that the IEP includes transition services since May 2024, as required by 34 CFR § 300.320 and COMAR 13A.05.01.07. Therefore, MSDE finds a violation.

FINDING OF FACT:

ALLEGATION #4

PROVISION OF PRIOR WRITTEN NOTICE

34. The CCPS acknowledged that a PWN was not developed and provided to the parent after a meeting held on May 22, 2024. They also acknowledge that the IEP was not sent home 5 days after the IEP meeting.

CONCLUSION:

Based on Finding of Fact #34, MSDE finds that the CCPS did not provide the PWN of the IEP team's decisions from an IEP team meeting held in May 2024 in accordance with 34 CFR § 300.503. Therefore, MSDE finds a violation.

Based on Finding of Fact #6, MSDE finds that the CCPS did not provide PWN of the IEP team's decisions from an IEP team meeting held on January 26, 2024. Therefore, MSDE finds a violation.

CORRECTIVE ACTIONS/TIMELINES:

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

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner¹. 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

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.

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 action². Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the CCPS to provide documentation by May 15, 2025, that it has taken the following actions:

- a. Convened an IEP team meeting to update the current IEP, ensuring it accurately reflects the student's present needs and complies with IDEA, COMAR, and MSDE guidance.
- b. Provided the parents with prior written notice of the decisions made at IEP meetings held in January and May 2024.
- c. Determined the compensatory services needed to remediate the violations identified in this investigation; and
- d. Develop a plan for the implementation of the services within one year of the date of this Letter of Findings.

The CCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain 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 CCPS to provide documentation by May 15, 2025, that it has provided professional development to [REDACTED] School staff on the following:

- The proper procedure for conducting a reevaluation, including updating the IEP
- The provision of prior written notice and the IEP after an IEP team meeting
- Developing/updating an IEP in accordance with IDEA, COMAR, and MSDE guidance.

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 sent directly 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.

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 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/sj

c: Dr. Andrae Townsel, Superintendent, CCPS
[REDACTED], [REDACTED] School, Principal, CCPS
Alison Barmat, Branch Chief, Dispute Resolution and Family Support, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Stephanie James, Complaint Investigator, MSDE