

March 13, 2025



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

RE: [REDACTED]
Reference: #25-227

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 29, 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 has not ensured that a reevaluation has occurred at least every three years since the start of the 2024 -2025 school year in accordance with 34 CFR § 300.303.
2. The MCPS did not ensure that the parent was provided with accessible copies of each document that the Individualized Education Program (IEP) team planned to discuss at the January 16, 2025, IEP team meeting at least five business days before the scheduled meeting in accordance with COMAR 13A.05.01.07. Specifically, you allege the IEP team did not provide you with a teacher report.
3. The MCPS did not ensure that the student’s IEP developed on January 16, 2025, contains a transition plan based on age-appropriate assessments in accordance with 34 CFR § 300.320.

BACKGROUND:

The student is 14 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:

1. The IEP in effect at the start of the 2024-2025 school year was developed on February 24, 2024. The IEP reflects the projected evaluation date of January 26, 2025.
2. On January 3, 2025, MCPS generated a Notice of Individualized Education Program (IEP) Team Meeting for a proposed meeting scheduled for January 16, 2025, to review and revise the IEP, if appropriate, and to consider reevaluation to determine the need for additional data, determine services, and/or determine continued eligibility.
3. On January 9, 2025, via email, the complainant was provided with the documents the IEP team planned to discuss during the IEP meeting scheduled for January 16, 2025. The email included a Five-Day Disclosure Notice of Documents Provided to the Parent/Guardian for Review at an IEP Meeting, which stated that the complainant was given the draft IEP, January 2022 educational assessments, January 2022 psychological assessment, and January 2022 speech-language assessment. Additionally, the email enclosed the student's "8th Grade Middle School Transition Interview."
4. There is documentation that the draft IEP sent to the complainant on January 9, 2025, provides statements of the student's present levels of academic achievement and functional performance in all areas of concern.
5. On January 16, 2025, the IEP team convened to update the annual IEP and discuss the triennial evaluation to determine whether the student remains eligible for special education services. During the meeting, the IEP team proposed to conduct educational, psychological, and speech-language assessments. The IEP team reviewed previous January 2022 psychological assessments, February 2022 educational assessment, historical data, and classroom data from the last two quarters. The team proposed "reconfirming the student's eligibility for special education services under the disability category of Autism" and recommended "revisiting his eligibility once the updated assessments are completed, as his re-evaluation due date is January 26, 2025."

The prior written notice (PWN) generated after the meeting reflects the complainant and her educational advocate did not agree with reconfirming the student's eligibility for special education services under the disability category of Autism based on his previous assessments and classroom data. They felt it was "inappropriate" to determine eligibility using outdated assessments. Due to the disagreement with the IEP team members, the IEP team "decided to pause the meeting" and reconvene later with either a program specialist, instructional specialist, or special education supervisor. The IEP team did not update the student's IEP.

6. The PWN reflects the complainant agreed to this, "understanding that it may result in the reevaluation due date January 26, 2025, and the annual review due date February 25, 2025, passing, which would cause the IEP to be out of compliance."
7. On January 22, 2025, the complainant signed consent for the student to receive assessments in the areas of academic performance, communication, functional/ adaptive performance, intellectual/ cognitive functioning, and social-emotional/ behavior.
8. On February 12, 2025, MCPS generated a Notice of IEP Team Meeting for a proposed meeting scheduled for February 19, 2025, to review and revise the IEP if appropriate and another meeting for March 24, 2025, to review written referral and/or existing data and information, and, if appropriate, determine eligibility for special education services.

DISCUSSION AND CONCLUSION:

ALLEGATION #1

REEVALUATION PROCEDURES

IDEA requires that a reevaluation must occur at least once every three years unless the parent and the school district agree that it is unnecessary (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).

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

In this case, MCPS failed to complete the student's reevaluation with sufficient time for them to complete the recommended assessments to confirm the student's continued eligibility. Although an IEP meeting was held on January 16, 2025, it was paused due to disagreement over outdated assessments, delaying the process, therefore, the evaluation was not completed before the deadline.

Based on Findings of Fact #1 through #3, #5, and #7, MSDE finds that the MCPS has not ensured that a reevaluation has occurred at least every three years since the start of the 2024-2025 school year in accordance with 34 CFR § 300.303. Therefore, MSDE finds a violation.

ALLEGATION #2

PROVISION OF DOCUMENTS BEFORE AN IEP TEAM MEETING

In this case, the complainant alleges that the school team failed to collect and provide teacher input for the student's annual review. The MCPS provided the parent with the draft IEP that included data demonstrating the student's current strengths and needs.

Based on Findings of Fact #2, #3, #4, MSDE finds that the MCPS did ensure that the parent was provided with accessible copies of each document that the IEP team planned to discuss at the January 16, 2025, IEP team meeting at least five business days before the scheduled meeting in accordance with COMAR 13A.05.01.07. Therefore, MSDE does not find a violation.

ALLEGATION #3

TRANSITION PLAN

In this case, the complainant alleges that the student's "8th Grade Middle School Transition Interview" report, which was provided to her as data used to update the student's transition section of the IEP, fails to meet IDEA requirements due to its lack of clarity, incomplete and vague content, failure to integrate with the IEP, absence of measurable goals or a comprehensive plan, and inclusion of unnecessary school listings.

The IEP team met on January 16, 2025, to update the student's IEP with information from the transition interview; however, the meeting was concluded early at the complainant's request. Therefore, the IEP team did not use the information provided to update the annual IEP. The student's IEP was not completed on January 16, 2025.

Based on the Findings of Fact #2, #3, #5, #6, and #8, MSDE finds that due to the continuation of the IEP meeting, MCPS was not required to develop an IEP on January 16, 2025, that contains a transition plan based on age-appropriate assessments in accordance with 34 CFR § 300.320. Therefore, this aspect of the allegation is not ripe for MSDE's review.

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 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 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 MCPS to provide documentation by May 30, 2025, that the IEP team has:

- a. Completed the requested assessments, convened an IEP team meeting to review the assessment data, and reviewed and revised the student's IEP as appropriate, in alignment with the current data.
- b. Determined the amount and nature of compensatory services or other remedy to redress the violations of failing to conduct a reevaluation within the required timeline and develop 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 parent is provided with 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.

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, the 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.

School-Based

MSDE requires the MCPS to provide documentation by May 30, 2025, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for conducting timely reevaluations under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance and document the provision of services.

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/sj

c: Dr. Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Eve Janney, Compliance Specialist, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], [REDACTED] School, Principal, MCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, 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