

April 7, 2025

[REDACTED]

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

RE: [REDACTED]
Reference: #25-251

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 6, 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 follow proper procedures in making the determination that the student would participate in the alternate Maryland State Assessment and would pursue a Certificate of Program Completion instead of a high school diploma, since February 2024, in accordance with 34 CFR § 300.320 and COMAR 13A.03.02.09.
2. The MCPS has not developed an Individualized Education Program (IEP) that addresses the student’s identified speech-language needs, Augmentative and Alternative Communication (AAC) needs, Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP) needs, since February 2024, in accordance with 34 CFR § 300.324.
3. The MCPS has not ensured that the IEP contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance (PLAAFP) since February 2024, in accordance with 34 CFR § 300.320.

4. The MCPS has not ensured that the student was provided with the assistive technology as required by the IEP since the start of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .323.
5. The MCPS did not ensure that an IEP team meeting convened on January 31, 2025, included the required participants, in accordance with 34 CFR § 300.321.
6. The MCPS did not provide the complainant with an interpreter, and did not provide the complainant with prior written notice (PWN) of the IEP team's decisions in the complainant's native language since January 31, 2025, in accordance with 34 CFR §§ 300.322 and .503.

BACKGROUND:

The student is 13 years old and is identified as 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.

ALLEGATIONS #1, #2, #3, AND #4 DETERMINING STUDENT PARTICIPATION IN THE ALTERNATE MARYLAND SCHOOL ASSESSMENT PROGRAM, DEVELOPMENT OF THE IEP, MEASURABLE GOALS AND A STATEMENT OF THE STUDENT'S PLAAFP

FINDINGS OF FACT:

1. The IEP, in effect since February 2024, was developed on December 21, 2023, amended on April 2, 2024, and has a projected annual review date of December 6, 2024. The IEP reflects the student's and parents' native language as [REDACTED]. The IEP reflects the areas impacted by the student's disability as community-based instruction, math calculation, reading comprehension, reading vocabulary, expressive language, written language expression, social-emotional/behavioral, and work-based learning.

The IEP reflects that the IEP team completed and signed the Appendix A in agreement with the student participating in the alternate Maryland State Assessments and agreed that the student would pursue a Certificate of Program Completion instead of a high school diploma on December 7, 2023. The IEP reflects that the complainants signed the Appendix A in agreement on December 8, 2023. In addition, it is reflected that the student "is a student with autism whose cognitive ability is below her same age peers. She has delays in communication which impact all aspects of her learning... She is currently accessing the curriculum with significant modifications. Based on this information, previous assessments, and current classroom data, it was recommended that she pursue a certificate of completion and will participate in alternate learning outcomes and assessments."

The PLAAFP reflects the following:

- Reading vocabulary: Daily cold probe data, teacher observation, work samples, and informal assessment data are reflected. "[The student] learned an average of 3 new sight words per quarter. When sight words were selected from a fourth-grade high frequency list and level C/D texts [the student] was not able to master the sight words in

the span of a quarter. [The student] is currently working at an upper third grade level for sight word vocabulary... would benefit from repeated practice and exposure to increasingly challenging sight words at an upper third and lower fourth grade level."

- Level of performance: "Second-third"
- Reading comprehension: Cold probe data, teacher observation, and classroom assessment data are reflected. "[the student] is currently answering wh- questions about level B texts from an answer field of three choices with no visual support in the small group setting. In the whole group setting [the student] is answering wh- comprehension questions about a novel text (news article or community text) with 93% accuracy. [The student] has demonstrated mastery of following written directions to complete actions at her seat, navigating her environment, and using materials."
 - Level of performance: Kindergarten
- Math calculation: Cold probe data, teacher observations, and work sample data are reflected. "[The student] can currently solve any given addition or subtraction problem, including decimals, given a calculator. She successfully combines \$1, \$5, and \$10 bills to create directly given totals. [The student] has not yet been introduced to using the calculator to solve multiplication or division problems."
 - Level of performance: First
- Written language expression: Work samples, teacher observations, and classroom-based assessment data are reflected. "[The student] has completed various forms including information such as her address, country, and first and last names in different orders. [The student] benefits from first having a model to copy from that can then be faded. [The student] can successfully fill in multiple words to create a sentence about a given picture."
 - Level of performance: Kindergarten
- Expressive language: Speech-language therapy tasks and clinical observations are reflected. Her strengths are "expressive and receptive vocabulary, expressing multi-word requests with a prompt in both a question and statement, commenting on activities and visuals with a prompt, answering yes/no questions, following one to two step directions in the classroom setting, answering questions when supported with visuals/three multiple choice options."
 - Level of performance: Below age expectations
- Community-based instruction: Task analysis, teacher observation, and daily behavior data are reflected. "[The student] is currently displaying appropriate behavior throughout community outings and responding after 1 adult prompt when needed. [the student] locates items from a modified shopping list with 86% accuracy when brought into the aisle."
 - Level of performance: Below age expectations
- Social emotional/behavioral: Daily behavior data, informal data, and teacher observation are reflected. "[The student] actively participates in all parts of the school day. She remains at her seat and does not talk during instruction. The main behavior that is observed is engaging in self-stimulatory behavior in the form of heavy breathing. [The student] accepts no and either follows the direction or says "no thank you" when asked to do something non-preferred."
 - Level of performance: Below age level expectancy

- Work-based learning: Observation record, classroom-based assessment, and classroom data collection are reflected. "[The student] mastered the in school jobs of sorting mail and stocking shelves. She will independently seek out an adult to report that she has finished a task and ask a question to request a preferred item."
 - Level of performance: Below grade level expectations.

The IEP reflects that the student's "expressive language needs that will be addressed through speech-language therapy as a related service and staff consultation."

The IEP requires the student be provided with assistive technology devices and services, the student "benefits from low tech supports to aid in comprehension and communication."

The IEP does not require an AAC device, FBA, or BIP.

The IEP requires goals:

- Community-based instruction: "Given necessary adaptive materials, modified visual cues, sequence of steps, social stories, behavioral expectations, and faded prompts, [the student] will demonstrate independence with community based skills including: finding items off of an adapted shopping list and maintaining appropriate behavior by finding non-preferred items from a list remaining with the group, keeping her hands to herself, and having a quiet voice for 4 out of 5 opportunities by 12/06/2024."
 - Method of measurement: Observational record
 - Criteria (mastery and retention): Four out of five trials
- Written language expression: "Given necessary modified resources, visual aids, sentence starters, opportunities for repeated practice, faded prompts, and 1:1 correspondence, [the student] will demonstrate independence with various written language tasks related to writing complete sentences, syntax, and expressing her personal information by writing her personal information in the correct location on forms and applications and using sentence starters create sentences about a picture with 80% accuracy by 12/06/2024."
 - Method of measurement: Classroom-based assessment: cold probe
 - Criteria (mastery and retention): 80% accuracy
 - This goal has no criteria for retention
- Expressive language: "By December 6, 2024, [the student] will use 4-7 words to make requests, ask questions, make comments using descriptive adjectives, and participate in social language exchanges with peers and adults given wait time, sentence starters/cloze phrases, access to visuals to support verbal expression (i.e. picture symbols, core/fringe vocabulary boards) and no more than 1 verbal or visual prompt in 4/5 trials."
 - Method of measurement: Observational record
 - Criteria (mastery and retention): Four out of five trials
- Social emotional/behavioral: "Given a reinforcement system, faded prompts, and opportunities for repeated practice, [the student] will decrease level of adult supports/prompting and disruptive behaviors across all settings by decreasing rates of heavy breathing and sitting during whole group instruction with quiet body and mouth for 20 minutes in 4 out of 5 trials by 12/06/2024."

- o Method of measurement: Observational record
 - o Criteria (mastery and retention): Four out of five trials
 - o This goal has no criteria for mastery.
- Work based learning: “Given visual supports, positive reinforcement, supervision, systematic instruction, and prompts, [the student] will independently demonstrate new school jobs by completing 2 new classroom jobs and initiate and complete a familiar classroom routine in 4 out of 5 trials before 12/06/2024.”
 - o Method of measurement: Observational record
 - o Criteria (mastery and retention): Four out of five trials
- Math calculation: “Given evidence-based instructional strategies, modified materials, use of manipulatives, errorless teaching, 1:1 correspondence, teacher made probes, a calculator, and faded prompts, [the student] will solve problems with the four operations and demonstrate money skills by finding and adding prices to determine a total with 80% accuracy by 12/06/2024.”
 - o Method of measurement: Classroom-based assessment: cold probe
 - o Criteria (mastery and retention): 80% accuracy
 - o This goal has no criteria for retention.
- Reading comprehension: “Given an evidence-based multi-sensory approach to reading, a variety of modified instructional text (literary, informative, narrative), small group/1:1 correspondence and faded prompts, [the student] will demonstrate comprehension of written material by answering comprehension questions (who, what, where, when, how) with words presented in a field of 3 and following 2 step written directions with 80% accuracy by 12/06/2024.”
 - o Method of measurement: Classroom-based assessment: cold probe
 - o Criteria (mastery and retention): 80% accuracy
 - o This goal has no criteria for retention.
- Reading vocabulary: “Given visual cues, evidence based instructional strategies, errorless teaching, small group/1:1 correspondence, and faded prompts, [the student] will expressively identify sight words from the third and fourth grade lists and expressively identify functional vocabulary (e.g. household objects) with 80% accuracy by 12/06/2024.”
 - o Method of measurement: Classroom-based assessment: cold probe data
 - o Criteria (mastery and retention): 80% accuracy
 - o This goal has no criteria for retention.

The IEP requires four sessions of 45 minutes monthly of speech-language services outside the general education classroom. The goals do not include criterion for retention.

The least restrictive environment (LRE) requires the student to be inside the general education classroom less than 40% of the day.

- Two hours and 30 minutes weekly inside the general education classroom for lunch, recess, and assemblies
- 31 hours and 15 minutes weekly outside the general education classroom
- “[The student] has significant delays across all academic areas and with adaptive behavior. She requires intensive, individualized, systematic instruction in order to make progress and is unable to benefit from the instructional model in the general education environment.”

- The student is enrolled in the autism program.

There is no documentation that the required annual review took place on or before December 6, 2024.

2. In its written response, the MCPS acknowledges that they:
 - Did not follow proper procedures in making the determination that the student would participate in the alternate Maryland State Assessments and would pursue a Certificate of Program Completion instead of a high school diploma, since December 6, 2024, because they did not review Appendix A and the IEP annually.
 - Have not developed an IEP that addresses the student's identified speech-language needs, since December 6, 2024.
 - Have not ensured that the IEP contains appropriate measurable goals and a statement of the student's PLAAFP since December 6, 2024.
3. While there is documentation that the student benefits from low tech support to aid in comprehension and communication, there is no documentation to support the allegation that the student requires an AAC device.

There is documentation that the student was provided with low tech supports as required by the IEP since February 2024.

4. There is no documentation to support the allegation that the student requires an FBA or BIP.

DISCUSSIONS AND CONCLUSIONS:

Determining Student Participation in the Alternate Maryland School Assessment Program

Parents must provide written consent for their child to participate in the Alternate State Assessments and/or instruction aligned with alternate academic achievement standards (AAAS) (Md. Code Ann., Educ. § 8-405(f)). The IEP team must affirm that the parent understands the decision-making process, including that the decision is reviewed annually, and the implications of the decision, namely that if the student continues with instruction and assessment according to the AAAS, they will be unable to complete the requirements for a Maryland High School Diploma. (MSDE Alternate Education Framework December 2022).

Based on Finding of Fact #1, MSDE finds that the MCPS did follow proper procedures in making the determination that the student would participate in the Alternate Maryland State Assessments and would pursue a Certificate of Program Completion instead of a high school diploma, from February 2024 to December 5, 2024, in accordance with 34 CFR § 300.320 and COMAR 13A.03.02.09. Therefore, MSDE finds no violation.

Based on Finding of Fact #2, MSDE finds that the MCPS did not follow proper procedures in making the determination that the student would participate in the Alternate Maryland State Assessments and would pursue a Certificate of Program Completion instead of a high school diploma since December 2024, in accordance with 34 CFR § 300.320 and COMAR 13A.03.02.09. Therefore, MSDE finds a violation.

Development of the IEP

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).

Based on Finding of Fact #1, MSDE finds that the MCPS has developed an IEP that addresses the student's identified speech-language needs, from February 2024 to December 5, 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE finds no violation.

Based on Findings of Fact #1 and #2, MSDE finds that the MCPS has not developed an IEP that addresses the student's identified speech-language needs, since February 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE finds a violation.

Based on Findings of Fact #1, #3, and #4, MSDE finds that the MCPS was not required to develop an IEP that addresses the need for an AAC device, FBA and BIP, because there is no documentation that the student has needs in these areas, since February 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE finds no violation.

Measurable Goals and a Statement of the Student's PLAAFP

The public agency must ensure that the IEP contains measurable annual goals, including academic and functional goals designed to meet the child's needs resulting from the child's disability. These goals should enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs resulting from the child's disability (34 CFR § 300.320).

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).

Based on Finding of Fact #1, MSDE finds that the MCPS has ensured that the IEP contains appropriate measurable goals and a statement of the student's PLAAFP from February 2024 to December 5, 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds no violation. However, the goals do not include criteria for retention.

Provision of Assistive Technology

The public agency is required to ensure that assistive technology devices or services or both are made available to a student if required as a part of the student's special education, related services, or supplementary aids and services (34 CFR § 300.105).

Based on Findings of Fact #1 and #3, MSDE finds that the MCPS has ensured that the student was provided with the assistive technology as required by the IEP since the start of the 2024- 2025 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds no violation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Annual Review

A public agency shall ensure that the IEP team meets periodically, but not less than annually, to review and revise the IEP (34 CFR § 300.324).

In this case, to date, the student's annual IEP review meeting has not convened.

Based on Finding of Fact #1, MSDE finds that the MCPS has not ensured that the IEP team convened to conduct an annual review resulting in the failure to review Appendix A annually, develop measurable goals and a statement of the student's PLAAFP, and a finalized IEP on or before December 6, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred.

ALLEGATIONS #5 and #6

REQUIRED PARTICIPANTS AND PROVISION OF AN INTERPRETER AND PWN IN THE COMPLAINANT'S NATIVE LANGUAGE

FINDING OF FACT:

5. On January 31, 2024, the IEP team convened to review and revise the IEP. The PWN generated after the meeting reflects that the "Parent advocate expressed concerns that an interpreter was not invited. The school team shared that interpreter had not been requested by parent in the past, nor was it indicated on the IEP that interpreter was needed. The school team will arrange interpreters for future meetings and indicate on the new IEP that parent now requests interpreter."

There is documentation that the special education teacher, speech-language pathologist, IEP chair, parent advocate, and the complainant were participants at the meeting. There is no documentation that a general education teacher participated.

There is no documentation that the translated PWN was provided to the complainant.

DISCUSSIONS AND CONCLUSIONS:

Required Participants

The IEP team must include the student's parent, at least one regular education teacher of the student if the student is, or may be, participating in the regular education environment, at least one special education teacher of the student, a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction, is knowledgeable about the general education curriculum, and about the availability of resources of the public agency, an individual who can interpret the instructional implication of evaluation results, at the discretion of the parent or public agency, other

individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate, and the student when appropriate (34 CFR § 300.321 and COMAR – 13a.05.01.07).

In this case, the student is participating in the regular education environment, for lunch, recess, and assemblies. Additionally, the student's program is located in a comprehensive school in order to provide opportunities for inclusion so that the student may be part of a general education setting. Therefore, a general education teacher was required to participate at the January 31, 2025, IEP team meeting to discuss areas in which the student may have been included.

Based on Findings of Fact #1 and #5, MSDE finds that the MCPS did not ensure that the IEP team meeting convened on January 31, 2025, included the required participants, in accordance with 34 CFR § 300.321. Therefore, MSDE finds a violation.

Provision of an Interpreter and PWN in the Complainant's Native Language

Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including, notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and, scheduling the meeting at a mutually agreed on time and place, and take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English (34 CFR § 300.322).

The prior written notice must be written in language understandable to the general public and be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so (34 CFR § 300.503 (c)).

While Maryland law requires that the completed IEP document be translated into the parent's native language if the native language spoken by the parents is spoken by more than one percent of the total population residing in the jurisdiction, it does not require the PWN to be translated. Appropriate school personnel must provide the parents with the translated document within thirty calendar days after the date of the request. The parent must request the translation, although the request need not be in writing. MSDE Technical Assistance Bulletin (TAB) 17-04.

In this case the student's and parents' native language is Amharic, making it not feasible for the MCPS to translate the PWN.

Based on Finding of Fact #5, MSDE finds that the MCPS was not required to provide the complainant with an interpreter January 31, 2025, because they were unaware of the complainant's need for one, in accordance with 34 CFR §§ 300.322 and .503. Therefore, MSDE finds no violation.

Based on Findings of Fact #1 and #5, MSDE finds that the MCPS was not required to provide the complainant with the PWN of the IEP team's decisions in the complainant's native language since January 31, 2025, in accordance with 34 CFR §§ 300.322 and .503. Therefore, MSDE finds no 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. MSDE has established reasonable time frames 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 the 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 June 13, 2025, that the IEP team has taken the following action:

- a. Convened an annual review of the IEP to include developing the student's PLAAFP, develop measurable goals, and review Appendix A.
- b. Determined the amount and nature of compensatory services or other remedies to redress the violations and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The MCPS must ensure that the parent is provided with PWN 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.

School-Based

MSDE requires the MCPS to provide documentation by June 13, 2025, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for proper procedures for conducting an annual review and ensuring required participants attend IEP team meetings. These steps must include staff development, as well as tools developed to monitor compliance and document the provision of services.

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.

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. The written request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email 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/sd

c: Dr. Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Gerald Loiacono, Supervision, Resolution and Compliance Unit, MCPS
Maritza Macias, Paralegal, MCPS
[REDACTED], School Principal, [REDACTED] School, MCPS
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Sarah Denney, Complaint Investigator, Dispute Resolution, MSDE