

April 15, 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: #25-261

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 provide proper written notice (PWN) of the Individualized Education Program (IEP) team decisions from the IEP team meeting held on November 19, 2024, in accordance with 34 CFR § 300.503.
2. The MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the February 18, 2025, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.

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 November 19, 2024, the IEP team convened to conduct reevaluation planning for the student. The PWN generated after the meeting reflects the IEP team considered “Parent Input, Student Input, General Education Teacher, 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 determined that the student required the following updated assessments:
 - Speech-Language: Expressive/Receptive “to focus on higher level language”
 - Psychological:
 - Cognitive Testing
 - Classroom Observations
 - Behavior Rating Scales
 - Educational
 - Reading
 - Writing
 - Math

There is no documentation that the complainant was provided with the PWN from the November 19, 2024, IEP meeting.

2. There is documentation that the complainant signed the “Notice and Consent for Assessment” on December 3, 2024. The notice reflects that the IEP team needs additional information to determine the present level of academic achievement and developmental needs for the student. It provides the existing evaluations, assessments, procedures, records, reports, and interventions the IEP team considered in making its determination and lists the recommended evaluation assessments for the student. The notice states that the assessments are administered by trained and knowledgeable personnel, and that the evaluation results will be shared within 90 days of the date of the IEP team meeting when it was determined that additional data was needed. The notice provides the areas of student needs, when her last formal assessments were completed, as well as procedural safeguards and what agencies parents can contact if they have any questions or need any additional information concerning parental rights.
3. On February 7, 2025, a speech-language report was developed for the student.
4. On February 13, 2025, the MCPS staff emailed the complainant sharing that the student’s psychological assessment had not been completed and the draft IEP had not been updated with goals based on the new assessments. The staff member inquired if the complainant wanted to meet at the scheduled February 18, 2025, IEP meeting and schedule a continuation meeting to discuss the remaining information, or if the complainant wanted to reschedule the meeting for a later date “when all documents are completed and ready for the family to review.” The complainant chose to reschedule the meeting because she felt that the meeting would not be productive without the completed assessments.

The IEP meeting was rescheduled for March 4, 2025.

5. On February 18, 2025, an educational assessment report was completed for the student.
6. On February 21, 2025, a psychological assessment report was completed for the student.

The complainant was emailed a copy of the assessment on that day.

7. On March 4, 2025, the IEP team convened to conduct the student's reevaluation meeting. The team scheduled a continuation meeting for March 26, 2025.

There is no PWN from this meeting.

8. On March 9, 2025, the complainant emailed the MCPS requesting to reschedule the March 26, 2025, IEP meeting.

The IEP continuation meeting was rescheduled for April 9, 2025.

9. On March 26, 2025, the MCPS staff emailed the complainant a copy of the student's educational assessment, in class observation, psychological assessment, speech assessment, draft IEP, and teacher reports.

10. To date, there is no documentation that the IEP team has completed the reevaluation of the student agreed upon by the IEP team at the November 19, 2024, IEP team meeting.

DISCUSSIONS AND CONCLUSIONS

ALLEGATION #1

PROVISION OF PRIOR WRITTEN NOTICE

The public agency is required to provide the parent of a student with a disability with written notice before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. This notice includes a description of the action proposed or refused, an explanation of the action, a description of each evaluation procedure, assessment, record, or report used as a basis for the decision, a statement that the parents of a student with a disability have protection under the procedural safeguards and the means by which a copy of the description of the safeguards can be obtained, sources for parents to contact to obtain assistance in the understanding the provisions, a description of other options that the IEP team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal (34 CFR § 300.503).

There is no requirement to provide the parent of a student with a disability with a verbatim transcript of discussions that occur at the IEP team meeting. Additionally, as explained in the Analysis of Comments and Changes to the IDEA, there is nothing that would prohibit the public agency from using the IEP document as part of the prior written notice so long as it has all of the required content (Federal Register, Vol. 71, No. 156, August 14, 2006, p. 46691).

In this case, the signed notice of consent for assessment provided the complainant with all the required content that was included in the formal PWN.

Based on Finding of Fact #2, MSDE finds that the MCPS provided the complainant with prior written notice of the IEP team decisions from the IEP team meeting held on November 19, 2024, through the signed "Notice of Consent for Assessment" which included all of the required information from that meeting, in accordance with 34 CFR § 300.503. Therefore, MSDE finds no violation.

ALLEGATION #2

PROVISION OF IEP DOCUMENTS FIVE DAYS PRIOR TO IEP MEETING

The public agency is required to provide the parent with an accessible copy of each assessment, report, data chart, draft IEP (if applicable), or other document the team plans to discuss at the meeting at least five business days before a scheduled IEP team meeting (COMAR 13A.05.01.07).

In this case, the complainant did not receive the documents to be reviewed at the February 18, 2025, IEP meeting by February 11, 2025, to ensure the documents were received at least five business days before the meeting. Although the February 18, 2025, IEP meeting was canceled, the cancellation occurred on February 13, 2025, two days after February 11, 2025, causing the MCPS to be in violation of the five-day requirement.

Based on Finding of Fact #4, MSDE finds that the MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the February 18, 2025, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, MSDE finds a violation.

Notwithstanding the violation, based upon Finding of Fact #4, MSDE finds that the IEP team did not convene on February 18, 2025, therefore, no further student-specific corrective action is required.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Proper Procedures for Conducting a Reevaluation of the Student

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, the IEP team convened on November 19, 2024, to discuss reevaluation. The IEP team determined the student required updated assessments. The evaluation timeline elapsed as of February 17, 2025. To date there is no documentation that the IEP team has completed the reevaluation process.

Based on Findings of Fact #1 through #10, MSDE finds that the MCPS did not ensure that the reevaluation of the student was completed within the required timelines, in accordance with 34 CFR § 300.301 and COMAR 13A.05.01.06. 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.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution Branch, 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

By June 16, 2025, MSDE requires the MCPS to provide documentation that the school system has:

- Completed the student's reevaluation; 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 June 16, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the timely completion of reevaluations under the IDEA and the provision of documents five days in advance of IEP team meetings. These steps must include staff development.

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.

¹ 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.

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 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
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
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Nicole Green, Compliance Specialist, MSDE
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