

April 21, 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: #25-268

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 20, 2025, MSDE received a complaint from [REDACTED] and [REDACTED], hereafter “the complainants,” 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 allegations that:

1. The MCPS has not ensured that the student participated in alternative Statewide assessments since February 2024, in accordance with 34 CFR §§ 300.160, .320 and COMAR 13A.05.01.09. Specifically, you allege that the student has not been administered his Dynamic Learning Maps Alternate Assessment.
2. The MCPS has not ensured the Individualized Education Program (IEP) contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance since February 2024, in accordance with 34 CFR § 300.320.
3. The MCPS has not ensured that the student’s progress toward achieving the IEP goals has been measured in the manner required by the IEP since February 2024, in accordance with 34 CFR § 300.320.

4. The MCPS has not ensured that the student's assistive technology needs were considered and provided since February 2024, in accordance with 34 CFR § 300.324.
5. The MCPS has not ensured that the student's IEP addresses his behavioral needs that required a Functional Behavioral Assessment (FBA) since February 2024, in accordance with 34 CFR § 300.324.
6. The MCPS has not followed proper procedures when determining the student's Least Restrictive Environment (LRE) placement since September 2024, in accordance with COMAR 13a.05.01.10.

BACKGROUND:

The student is 10 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.

ALLEGATION #1

IMPLEMENTATION OF ALTERNATE STATEWIDE ASSESSMENT

FINDINGS OF FACT:

1. The student's IEP, effective February 2024 and developed on June 7, 2023, reflects that the student participates in alternate state assessments and the alternate academic achievement standards. Additionally, it reflects that the student will receive a Maryland High School Certificate of Program Completion.
2. The student's IEP, developed on May 30, 2024, and amended on March 25, 2025, reflects that the student continues to participate in alternate state assessments, the alternate academic achievement standards, and will receive a Maryland High School Certificate of Program Completion.
3. On June 22, 2024, the student was administered the Dynamic Learning Maps Alternate Assessment in the areas of mathematics and English language arts.

CONCLUSION:

Based on Findings of Fact #1 through #3, MSDE finds the MCPS has ensured that the student participated in alternative statewide assessments since February 2024 and was administered the Dynamic Learning Maps Alternate State Assessment in accordance with 34 CFR §§ 300.160, .320 and COMAR 13a.05.01.09. Therefore, MSDE does not find a violation.

ALLEGATION #2

**AN IEP THAT CONTAINS APPROPRIATE MEASURABLE GOALS
AND A STATEMENT OF THE PRESENT LEVELS OF ACADEMIC
ACHIEVEMENT AND FUNCTIONAL PERFORMANCE (PLAAFP)**

FINDINGS OF FACT:

4. The June 7, 2023, IEP reflects that communication, math calculation, math problem solving, reading comprehension, reading vocabulary, speech-language expressive language, speech-language receptive language, written language mechanics, community-based instruction, self-management, social emotional/behavioral, and fine motor are areas impacted by the student's disability. The IEP addresses goals in the impacted areas.

5. The student's IEP developed on May 30, 2024, and amended on March 25, 2025, reflects that communication, math calculation, math problem solving, reading comprehension, reading vocabulary, speech-language expressive language, speech-language receptive language, written language mechanics, community-based instruction, and social emotional/behavioral are areas impacted by the student's disability. The IEP includes goals in the same areas of concern.
6. The June 7, 2023, reading vocabulary present level of academic achievement and functional performance (PLAAFP) reflects:

Classroom data, observation records, and informal procedures, data reflects:

"Using sight word cards within a field of three, [Student] has mastered receptively identifying three sight words (in, water, down). He is currently working on identifying said, door, about, and card." [Student] needs to expand his sight word vocabulary and continue to work on identifying vocabulary words within a field of three.

- Level of performance: Kindergarten

The reading vocabulary goal states: "By June 2024, given systematic instruction, word cards, visual supports, an individualized reinforcement system, and opportunities for practice, [Student] will apply grade-level phonics and word analysis skills in decoding words by receptively identifying 25 sight words (K level) in a field of three (3) and expressively labeling/tacting five (5) sight words (K level)."

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 3 independent responses over 3 data days

7. The March 25, 2025, reading vocabulary PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "During this IEP cycle, [Student] mastered identifying the sight word "up" within a field of three. [Student] had some difficulties with this goal. When presented with all three cards, [Student] selects cards at random. He requires close adult proximity and repetition to choose the desired sight word. [Student] needs to continue to practice decoding and identifying various sight words with increasing difficulty.

- Level of performance: Kindergarten

The reading vocabulary goal states: "By May 2025, given systematic instruction, word cards, visual supports, an individualized reinforcement system, repetition, and practice opportunities, [Student] will apply phonics and decoding by receptively identifying and expressively labeling sight words."

- Method of Measurement: Classroom data, observation record, informal procedures.
- Criteria (Mastery and Retention) with: 3 independent responses over 3 data days.

8. The June 7, 2023, reading comprehension PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "[Student] follows and has mastered the following two-step imitations (hands on stomach/shake head no, hands on cheeks/rub hands, push in chair/jump, hands on knees/stomp feet, shake head yes/touch ears). [Student] has mastered the following GMI (gross motor imitation) instructions: clap hands, stand, sit, pat head, shake head yes, and jump. [Student] is working on matching pictures with corresponding sentences read aloud using visuals as well as gestural and verbal prompting.

Needs: [Student] needs to work on matching images with their corresponding read-aloud sentences."

- Level of performance: Kindergarten

The reading comprehension goal states: "By June 2024, given systematic instruction, an individualized reinforcement system, modified texts, and visual supports, [Student] will answer wh questions (who, what, where, when, why, and how) and understand key details in a text by answering who what and where questions about a modified text of three to four sentences paired with pictures by answering of text for 10 stories with three picture word answer choices and matching pictures for the corresponding sentences.

- Method of Measurement: Classroom observation.
- Criteria (Mastery and Retention) with: 4 out of 5 trials.

9. The March 25, 2025, reading comprehension PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "During this IEP cycle, [Student] mastered identifying the sight word "up" within a field of three. [Student] had some difficulties with this goal. When presented with all three cards, [Student] selects cards at random. He requires close adult proximity and repetition to choose the desired sight word. [Student] needs to continue to practice decoding and identifying various sight words with increasing difficulty.

- Level of performance: Kindergarten

The reading comprehension goal states: "By May 2025, given systematic instruction, an individualized reinforcement system, modified texts, wait time, fading adult support, and visual supports, [Student] will answer wh questions (who, what, where, when, why, and how) and understand key details in a text by answering who what and where questions about a modified text."

- Method of Measurement: Classroom observation.
- Criteria (Mastery and Retention) with: 3 out of 5 trials.

10. The June 7, 2023, math calculation PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "[Student] has demonstrated the ability to receptively identify numbers when number cards are presented in a field of 3 numbers for numbers 1 through 53. He has demonstrated receptive identification of miscellaneous numbers up to 100 (i.e. 96, 54, 62).

Needs: [Student] needs to work towards counting out sets of manipulatives for numbers 6-10 and match numbers to quantity for numbers 1-12."

- Level of performance: Kindergarten

The math calculation goal states: "By June 2024, given systematic instruction, manipulatives, templates (i.e. tens frame, number line), reinforcement, and repeated practice, [Student] will count out sets of manipulatives for numbers 6-10 and match numbers to quantity for numbers 1-12."

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 3 independent student responses over 3 data days

11. The March 25, 2025, math calculation PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "During this IEP cycle, [Student] mastered matching written and physical quantities to numbers 3,5,7,9,12. He also mastered counting 6,7, and 9 with exact sets of manipulatives. [Student] needs to continue to work on matching quantities and counting with exact sets of manipulatives. He also needs to work on counting numerals from a larger set of manipulatives."

- Level of performance: Kindergarten

The math calculation goal states: "By May 2025, given systematic instruction, manipulatives, templates (i.e. tens frame, number line), reinforcement, and repeated practice, [Student] will demonstrate an understanding of math calculation by counting from various sets and matching quantities to numerals."

- Method of Measurement: Classroom data, observation record, informal procedures.
- Criteria (Mastery and Retention) with: 3 out of 5 trials.

12. The June 7, 2023, math problem-solving PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "[Student] is able to count out sets of manipulatives for numbers 1 through 6 when given a larger set of manipulatives than the target amount. Needs: [Student] needs to count out sets from a larger set using a template such as a number line or tens frame for amounts up to 10."

- Level of performance: Kindergarten

The math problem-solving goal states: "By June 2024, given most-to-least prompt hierarchy, individualized reinforcement system, opportunities for practice, picture cards, and a hundred chart [Student] will demonstrate understanding of identification of numbers by expressively labeling/tacting numbers 11-25 and receptively identifying numbers 1-100 within a field of three (3) cards."

- Method of Measurement: Classroom data, observation, and modified curriculum.
- Criteria (Mastery and Retention) with: 3 out of 4 trials.

13. The March 25, 2025, math problem-solving PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected.

"During this IEP cycle, [Student] mastered matching written and physical quantities to numbers 3, 5, 7, 9, 12. He also mastered counting 6, 7, and 9 with exact sets of manipulatives. [Student] needs to continue to work on matching quantities and counting with exact sets of manipulatives. He also needs to work on counting numerals from a larger set of manipulatives."

- Level of performance: Kindergarten

The math problem-solving goal states: "By May 2025, given the most-to-least prompt hierarchy, individualized reinforcement system, opportunities for practice, picture cards, and a hundred chart [Student] will demonstrate an understanding of number identification by expressively labeling/tacting and receptively identifying numerals."

- Method of Measurement: Classroom data, observation, and modified curriculum
- Criteria (Mastery and Retention) with: 3 out of 4 trials.

14. The June 7, 2023, written language mechanics PLAAFP reflects the following:

Classroom data, permanent products, and informal procedure data are reflected. "[Student] is able to trace his first and last name independently. He has demonstrated independently writing his first name with a model. He continues to need prompting to connect the lines at the top of his "A". Needs: [Student] needs to write his first and last name with a fading model."

- Level of performance: Kindergarten

The written language mechanics goal states: "By June 2024, given prompt hierarchy, an individualized reinforcement system, visuals, fading prompts, writing utensils (pencil or dry-erase marker), paper, a dry-erase board, and opportunities for practice, [Student] will demonstrate writing his first name and

last name and copying ten (10) vocabulary words (3-5 letters each). ”

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 4 out of 5 trials

15. The March 25, 2025, written language mechanics PLAAFP reflects the following:

Classroom data, permanent product, and informal procedure data are reflected. “During this IEP cycle, [Student] has mastered writing his first and last name with fading visuals. He mastered writing the following sight words: up, and. [Student] showed difficulty with writing sight words independently. He asks for help when writing unfamiliar lowercase letters. [Student] needs to continue to work on writing sight words.”

- Level of performance: Kindergarten

The written language mechanics goal states: “By May 2025, given prompt hierarchy, an individualized reinforcement system, visuals, fading prompts, writing utensils (pencil or dry-erase marker), paper, a dry-erase board, and practice opportunities, [Student] will expand his written language skills by writing.”

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 3 out of 5 trials

16. The June 7, 2023, speech-language receptive language PLAAFP reflects the following:

Therapy logs, observations, and data collection are reflected. “April 2023: [Student] is able to follow simple directions involving basic concepts during structured language tasks given visuals and prompts with 60% accuracy. He is not yet able to follow directions pertaining to spatial directions given prompts. [Student] has made progress with identifying nouns/verbs. When he is focused, he is able to identify nouns with 50-60% accuracy, given prompts and visuals. [Student] is continuing to work on following directions involving spatial concepts and size-related concepts, as well as identifying verbs given visuals and prompts. He continues to benefit from support in this area in order to generalize his receptive language skills across all environments.

- Level of performance: Below age expectations

The speech-language receptive language goal states: “By June 2024, given prompt hierarchy, an individualized reinforcement system, visuals, fading prompts, writing utensils (pencil or dry-erase marker), paper, a dry-erase board, and opportunities for practice, [Student] will demonstrate writing his first name and last name and copying ten (10) vocabulary words (3-5 letters each).”

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 4 out of 5 trials

17. The March 25, 2025, speech-language receptive language PLAAFP reflects the following:

Therapy logs, observations, and data collection are reflected. “[Student] is making steady progress towards his goals. He is able to follow one-step commands with spatial concepts through prompts and modeling and repeated visual cues with 50-60% accuracy. He is able to identify verbs with 80% accuracy and basic nouns with 80% accuracy in structured, trained activities.”

- Level of performance: Below age expectations

The speech-language receptive language goal states: “[Student] will follow 1-step directions and answer basic 'wh' questions with 80% accuracy by May 2025.”

- Method of Measurement: Speech-Language Pathologist (SLP) session data, classroom data
- Criteria (Mastery and Retention) with: 80 % Accuracy

18. The June 7, 2023, speech-language expressive language PLAAFP reflects the following:

Therapy logs, observations, and data collection are reflected. "April 2023: [Student] has made improvements with labeling nouns with less direct prompts. When labeling nouns/verbs, [Student] is able to use more phonemic cues instead of imitation strategies, achieving 20% accuracy when labeling nouns. He continues to benefit from visuals, models, phonemic cues, and pacing strategies when answering 'wh' questions and making comments on stories. He continues to benefit from support in this area in order to generalize his expressive language skills across all environments."

- Level of performance: Below age expectations

The speech-language expressive language goal states: "[Student] will use total communication for functional communication purposes in order to request, protest, comment, and respond."

- Method of Measurement: SLP session data, classroom data
- Criteria (Mastery and Retention) with: 80 % Accuracy

19. The March 25, 2025, speech-language expressive language PLAAFP reflects the following:

Therapy logs, observations, and data collection are reflected. "[Student] is making steady progress towards his goals. He is able to use the phrase 'give me' with 80% accuracy to request his snacks when the wait time is increased and a visual cue is shown. He is able to independently name verbs and nouns with 70% accuracy and requires modeling and repetition to express himself correctly. "

- Level of performance: Below age expectations

The speech-language expressive language goal states: "[Student] will use total communication for functional communication purposes in order to request, protest, comment, and respond."

- Method of Measurement: SLP session data, classroom data
- Criteria (Mastery and Retention) with: 80 % Accuracy

20. The June 7, 2023, communication PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "When shown cards for expressively labeling/tacting cards, [Student] will point to the card without labeling. He often requires echoing (staff labeling the common object) to help him get started, along with positive reinforcement, additional practice, and repetition. When presented with common objects and actions within a field of three (receptive ID), [Student] takes his time to find the desired card. [Student] can become distracted and will select cards without looking. Staff has to ensure he is focused prior to starting receptive identification.

Needs: [Student] needs to work towards identifying and expressively labeling/tacting common nouns/objects and verbs/actions."

- Level of performance: Below age expectations

The communication goal states: "By June 2024, given systematic instruction, echoing, picture cards, reinforcement, and opportunities for practice, [Student] will demonstrate an understanding of pictures of common nouns and verbs by receptively identifying and expressively labeling/tacting 15 common nouns/objects and 10 verbs/actions."

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 3 consecutive data days correct

21. The March 25, 2025, communication PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "During this IEP cycle, [Student] mastered sixteen new common objects (baby, bird, house, sheep, frog, snake, house, bus, cow, dog, phone, bike, cat, duck, pig, elephant. He mastered seven new actions via receptive identification (sleeping, jumping, kicking, drinking, running, eating, and walking. [Student] needs to continue to expand his vocabulary by identifying common objects and actions."

- Level of performance: Below age expectations

The Communication goal states: "By May 2025, given systematic instruction, echoing, picture cards, reinforcement, wait time, repetition, and practice opportunities, [Student] will demonstrate an understanding of pictures of common nouns and verbs by expressively labeling/tacting and receptively identifying common objects and verbs/actions."

- Method of Measurement: Classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 3 consecutive data days correct

22. The June 7, 2023, social-emotional/behavioral PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "[Student] engages in out-of-seat behaviors. He averages 7.34 incidents per day with a range of 0-11 incidents. [Student] has improved in reducing overall elopement and needs to continue to work on reducing out-of-seat behaviors and remaining on task. Needs: [Student] needs to continue to reduce out-of-seat behaviors and remain on task."

- Level of performance: Below age expectations

The social-emotional/behavioral goal states: "By June 2024, given systematic instruction, positive behavior support, visuals, and reinforcement, [Student] will decrease the average incidents per day of out-of-seat behaviors by 50%. (baseline average 7.38 incidents per day)."

- Method of Measurement: Classroom data, observation record, informal procedures.
- Criteria (Mastery and Retention) with: 50 % decrease.

[Student] needs to continue to work on reducing his out-of-seat behaviors."

- Level of performance: Below age expectations

23. The March 25, 2025, social-emotional/behavioral PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. "[Student] decreased his out-of-seat behaviors to a daily average of three incidents per day.

The March 25, 2025, social-emotional/behavioral goal states: "By May 2025, given systematic instruction, positive behavior support, visuals, and reinforcement, [Student] will decrease the average of daily out-of-seat behaviors."

- Informal Procedures: Behavior Data Charts
- Method of Measurement: classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 3 out of 5 trials

24. The June 7, 2023, self-management PLAAFP reflects the following:

Classroom data, observation records, and informal procedure data are reflected. “[Student] can complete an arrival routine of taking off his coat, taking items out of his backpack, and placing them in the appropriate areas with no prompting. [Student] can complete his dismissal with little prompting. [Student] forgets to pack his water bottle and requires occasional verbal prompting. Needs: [Student] needs to complete his unpacking routine independently.”

- Level of performance: Below age expectations

The June 7, 2023, self-management goal states: “By June 2024, given least-to-most prompt hierarchy, a water bottle visual, and opportunities for practice, [Student] will manage his belongings by completing 8 steps of a packing routine with no more than 1 gestural cue per step. (1. get folder from teacher, 2. get backpack, 3. put binder in backpack, 4 get lunch box, 5. put in backpack, 6. zip backpack 7. get water bottle 8. put in side pocket).”

- Method of Measurement: observation record, classroom data, observation record
- Criteria (Mastery and Retention) with: 4 out of 5 trials per step with 1 gestural

25. The June 7, 2023, community-based Instruction PLAAFP reflects the following:

Observation records and data collection are reflected.

“[Student] has been to Trader Joe's, Giant, Playa Bowls, That Smoothie Place, McDonald's, Potomac Pizza, and more this year. [Student] stays with the group and vocalizes his wants and needs within the store. When given a grocery list, he helps his group find desired objects. He requires gestural and verbal prompting to locate items on the shelf from the visual list.

Needs: [Student] needs to work towards finding items on a visual grocery list and placing them in the shopping cart.”

- Level of performance: Below age expectations

The June 7, 2023, community-based Instruction goal states: “By June 2024, given necessary materials (store, visual grocery list/menu, shopping list), community setting, classroom or virtual setting, visual supports, adult support, systematic instruction, and a prompt hierarchy, [Student] will demonstrate knowledge and overall community awareness in the community by using a visual shopping list to guide which four (4) items he gets and places in the shopping cart.”

- Method of Measurement: Classroom data, observation record.
- Criteria (Mastery and Retention) with: 70 % Accuracy

The March 25, 2025, community-based instruction PLAAFP reflects the following:

Observation records and data collection are reflected. “ [Student] has attended most [redacted] trips during the 2023-2024 school year. He has been to Target, Giant, Home Depot, that smoothie place, Playa Bowls, California Pizza Kitchen, Potomac Pizza, and more. [Student] stays with his group in the community. He enjoys navigating the cart around various stores. [Student] needs to work on locating items from a list and placing them into a cart.”

- Level of performance: Below grade level performance

The March 25, 2025, community-based Instruction goal states: "By May 2025, given necessary materials (store, visual grocery list/menu, shopping list), community setting, classroom or virtual setting, visual supports, adult support, systematic instruction, and a prompt hierarchy, [Student] will demonstrate knowledge and overall community awareness in the community by using a visual shopping list to locate desired items and place in the shopping cart."

- Informal Procedures: Classroom data, observation record
- Method of Measurement: classroom data, observation record, informal procedures
- Criteria (Mastery and Retention) with: 80 % Accuracy

26. The June 7, 2023, fine motor PLAAFP reflects the following:

Observation, teacher/team report, and work samples are reflected. [Student] has made progress toward his goals, meeting two objectives and making progress on two others. He can type his name with prompts and benefits from visual support to improve independence. In handwriting, he uses a right three-finger grasp and forms most letters well but needs support for consistent letter formation. He can cut straight lines with minimal cues but needs moderate prompting for cutting curves and craft assembly, so that goal was not met. [Student] met his goal for using prewriting strokes but still needs support to select a single answer consistently. He has shown improved regulation and participation in group settings, benefiting from proximity to staff and environmental support. Strengths include cutting straight lines, willingness to practice writing, and improved regulation. Areas of need include letter formation and cutting curved lines.

- Level of performance: Below grade level

The fine motor goal states: "By June 2024, given visual aids and rebound scissors, [Student] will use fine motor skills to complete school tasks in 3 out of 4 trials over one quarter as measured by staff observation and work samples."

- Method of Measurement: Observation, work samples, team report.
- Criteria (Mastery and Retention) with: 3 out of 4 trials.

The March 25, 2025, fine motor PLAAFP does not reflect a fine motor PLAAFP for May 2024. Data is provided for May 2025: [Student] has met 3 out of 4 objectives from his previous IEP. He demonstrates functional fine and visual motor skills when attending, forming letters in his name with improved legibility using connecting lines and letter-size boxes. He can make a check mark after practice but needs monitoring to select only one option. [Student] cuts accurately within 1/8" of a bold line with strategies for engagement. On the computer, he can track and target keys but needs significant prompting to maintain attention and complete tasks without exiting programs.

Strengths: Cutting straight lines, practicing prewriting lines and functional words, and using fine/visual motor skills for writing and computer tasks.

Needs: Continued work on self-regulation, engagement, and perseverance in adult-directed activities.

- Level of performance: Below grade level

CONCLUSION:

In this case, the complainant alleges that the student's PLAAFP lacks sufficient, accurate data to support the development of effective, data-driven IEP goals. They further assert that the present levels do not adequately describe the student's current abilities. Additionally, the complainant alleges that the IEP goals are not specific, measurable, or designed to allow for meaningful progress monitoring.

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, baseline data to measure progress, and input from caregivers and service providers (34 CFR § 300.320 and MARYLAND STATEWIDE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS GUIDE 2024).

In this case, the IEP in effect in June 2024, May 2024, and March 2025 does not reflect the requirements outlined in 34 CFR § 300.320 and MARYLAND STATEWIDE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS GUIDE 2024.

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).

In this case, for the IEPs in effect during June 2024, May 2024, and March 2025, the goals are not measurable because they do not specify how progress, mastery, and retention of skills will be assessed or measured over time.

Based on Findings of Fact #4 through #25, MSDE finds that the MCPS has not ensured the IEP contains appropriate measurable goals and a statement of the student's present levels of academic achievement and functional performance since February 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

ALLEGATION #3

PROGRESS REPORT

27. The student's April 10, 2024, report of progress, reflects that the student is "making sufficient progress to meet goals" for his academic goals. The progress report does not include data showing how the student demonstrated mastery and retention of IEP goals. The descriptions are generalized and lack specific evidence to support claims of progress. Although other progress reports suggest the student is making sufficient progress, they do not provide the required accuracy data to verify that assertion.

The progress reported is not measured in the manner required by the IEP.

The student's report of progress, dated June 13, 2024, reflects that the student's goals were not yet introduced, as the IEP team developed a new IEP on May 30, 2024.

The student's November 1, 2024, and January 28, 2025, reports of progress reflect that the student is "making sufficient progress to meet goals" for his academic areas of concern except reading vocabulary, communication, and reading comprehension. While the other reports indicate the student is making sufficient progress, there is no accuracy data as required by the goal to support that contention.

However, they are not measured in the manner required by the IEP.

The student's January 28, 2025, report of progress, reflects that the student is "Not making sufficient progress to meet goal" in the areas of reading vocabulary, communication, and reading comprehension. The progress notes do not provide data on how the student demonstrated mastery and retention of the IEP goals, nor do they indicate the methods of measurement used to monitor the student's progress toward the goals.

The progress reported is not measured in the manner required by the IEP.

CONCLUSION:

The public agency must ensure the provision of written information about the student's progress toward their IEP goals and that the written information is based on the data collection method required by the IEP and they must be provided the parent of a student with the completed progress report, as outlined in the IEP (34 CFR §§ 300.101, .320, and .323).

Based on Finding of Fact #26, MSDE finds the MCPS has not ensured that the student's progress toward achieving the IEP goals has been measured in the manner required by the IEP since February 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

ALLEGATION #4 ASSISTIVE TECHNOLOGY

28. The June 7, 2023, IEP reflects that the student requires an AT device and requires AT service(s) from which he benefits from visual supports to help support his communication both receptively and expressively. The IEP reflects that the student requires services to address his needs in communication and for the use of AT devices, such as, but not limited to, picture cards, sentence strips, voice output devices, pacing boards, etc.

29. The IEP developed on May 30, 2024, and amended on March 25, 2024, reflects that the student continues to require an AT device and services as in the previous IEP.

30. The IEP developed on June 7, 2023, and amended on March 25, 2024, reflects that, in the area of communication, the student continues to experience difficulties with expressive and receptive language, requiring services from a speech-language pathologist. The student has challenges at times with participation, processing information, and engaging in communicative interactions and instruction. His communication needs are addressed through his IEP goals and objectives.

31. The June 7, 2023, IEP's speech-language expressive language goal reflects the "student will use total communication for functional communication purposes in order to request, protest, comment, and respond.

The April 10, 2024, report of progress, reflects that the student was making progress toward meeting the goal, demonstrating mastery of tasks with 70% to 80% accuracy.

32. The student's speech-language expressive language goal on May 30, 2024, IEP reflects the "student will use total communication for functional communication purposes in order to request, protest, comment, and respond."

The November 1, 2024, January 28, 2024, and January 28, 2025, reports of progress, reflect the student was making progress to meet the goal.

CONCLUSIONS:

In this case, the complainant alleges that MCPS has not provided the student with an AAC device in school, despite the student using one in private speech therapy, and has not conducted an Assistive Technology Assessment to determine whether the student requires an assistive device beyond what is identified in the current IEP. However, the student uses total communication, including a voice output device in the school setting and is making progress toward his goals.

Based on Findings of Fact #27 through #33, MSDE finds the MCPS has ensured that the student's assistive technology needs were considered and provided since February 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

ALLEGATION #5

FUNCTIONAL BEHAVIOR ASSESSMENT

FINDINGS OF FACT

33. The June 7, 2023, IEP reflects that the student is a student with autism whose cognitive abilities are below those of his same-aged peers. In the area of social-emotional/behavioral functioning, the IEP notes that the student engages in out-of-seat behaviors, averaging 7.34 incidents per day, with a range of 0 to 11 incidents.

The social-emotional/behavioral IEP goal reflects, "By June 2024, given systematic instruction, positive behavior support, visuals, and reinforcement, [Student] will decrease the average incidents per day of out-of-seat behaviors by 50%. (baseline average 7.38 incidents per day)."

The April 10, 2024, progress report, reflects that the student was making progress toward meeting the goal, noting a decrease in out-of-seat behaviors to four incidents per day. The student often remains within three feet of his work area and typically requires two verbal prompts to return to his designated area.

The June 7, 2023, IEP does not reflect the student has behavior concerns that require a FBA or a Behavior Intervention Plan (BIP).

34. Although the IEP developed on May 30, 2024 and amended on March 25, 2025, reflects that the team determined the student required a similar IEP goal from the previous IEP and cited the student as making progress, the current IEP includes a goal, "By May 2025, given systematic instruction, positive behavior support, visuals, and reinforcement, [Student] will decrease the average of daily out-of-seat behaviors in 3 out of 5 trials."

The March 28, 2025, report of progress, reflects that the student has "achieved" the goal by maintaining near-zero levels of out-of-seat behavior.

35. The March 25, 2025, IEP does not reflect the student has behavior concerns that require a FBA or a Behavior Intervention Plan (BIP).
36. The June 7, 2023, and March 25, 2025, IEP require the student to be provided with instructional support, program modifications, social/behavioral support, and physical/environmental supports to access a modified general education curriculum.

Social/ Behavioral Support - June 7, 2023, IEP

- Provide frequent changes in activities or opportunities for movement- Daily
- Use of positive/concrete reinforcers- Daily
- Encourage/reinforce appropriate behavior in academic and non-academic settings- Daily
- Advanced preparation for schedule changes- Daily

March 25, 2025, IEP

- Strategies to initiate and sustain attention- Daily
- Use of positive/concrete reinforcers- Daily

37. There is no documentation that the student exhibits behaviors that require the additional behavioral supports including conducting an FBA.

38. There is no documentation that the complainant requested a FBA to assess his behaviors.

CONCLUSION:

In this case, the complainant alleges that behavior is an area of impact and that MCPS failed to conduct a Functional Behavioral Assessment or implement a Behavior Intervention Plan to understand the functions of the student's behaviors.

The public agency is required to develop an IEP that includes special education and related services designed to meet the unique needs of each student that arise from the student's disability. In the case of a student whose behavior impedes his or her learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior (34 CFR § 300.324).

The IDEA does not require that an FBA be conducted for every student with behavior concerns. The decision to conduct an FBA is an IEP team decision or should be considered upon a parent's request for an assessment. In this case, the IEP team considered the student's needs in developing the IEP and there is no documentation of a request from the parent that an FBA be conducted.

Based on Findings of Fact #32 through #36, MSDE finds that the MCPS has ensured that the student's IEP addresses his behavioral needs since February 2024, in accordance with 34 CFR § 300.324. As a result, the student did not require an FBA to assess his behaviors. Therefore, MSDE does not find a violation.

ALLEGATION #6

LEAST RESTRICTIVE ENVIRONMENT

FINDINGS OF FACT

39. The June 7, 2023, and March 25, 2025, IEP reflects that the student's least restrictive environment (LRE) continues to be in the Autism Program. The IEP reflects that the services in the general education setting at this time cannot adequately address his behavioral, learning, and communication needs. The student requires direct and explicit specialized instruction outside of the general education setting to address his needs in the areas of communication, language and literacy, math, and social foundations. His needs in the areas of communication and social-emotional-behavioral require specialized services and support outside his home school.

40. The June 7, 2023, and March 25, 2025, IEP reflects, “[Student] can participate with support in lunch, recess, assemblies, and other school activities as deemed appropriate by the school team with support. Refer to the services page for the amount of time within and outside the general education environment.”
41. The June 7, 2023, and March 25, 2025, IEP reflects that the student requires 24 hours and 50 minutes weekly of specialized instruction inside of the general education classroom in an Autism Program and five hours per week outside of the general education classroom.
42. The June 7, 2023, and March 25, 2025, IEP reflects that the student will receive all academic instruction in the special education setting and will attend all specials (PE, media, art, and music) in the special education setting. The student will also participate in lunch and recess in the general education setting with staff support.
43. There is documentation that the student’s classroom is supported by two paraeducators daily.

CONCLUSION:

In this case, the complainant alleges that MCPS unilaterally decided when the student would participate in activities instead of providing the support needed to ensure full inclusion.

Based on Findings of Fact #37 through #41, MSDE finds the MCPS followed proper procedures when determining the student’s LRE placement since September 2024, in accordance with COMAR 13a.05.01.10. Therefore, MSDE does not find a violation.

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.

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.

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 July 1, 2025, that the IEP team has taken the following action:

- a. Revised the IEP to include updated PLAAFP statements that incorporate multiple sources of data;
- b. Revised the IEP goals to be measurable;
- c. Determined the compensatory services needed to remediate the violations identified in this investigation; and
- d. Developed a plan for the implementation of the services within one year of the date of this Letter of Findings.

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

School-Based

MSDE requires the MCPS to provide documentation by July 1, 2025, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the implementation and development of an IEP with appropriate measurable goals and a statement of the PLAAFP, and reporting quarterly progress measured in the manner required by the IEP, under the IDEA. These steps must include staff development, as well as tools developed to document services and monitor compliance.

As of the date of this correspondence this Letter of Findings is considered final unless one of the parties requests a reconsideration. Requests for reconsideration must be received by this office within fifteen days of the date that the Letter of Findings is issued. However, 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, or there was a clear mistake of law in the findings. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Requests for reconsideration should be sent directly to Tracy Givens, Section Chief, Dispute Resolution at Tracy.Givens@maryland.gov. There are no timelines to receive a finding after a request for reconsideration. 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. Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Eve Janney, Compliance Specialist, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], [REDACTED] School, Principal, MCPS
Alison Barmat, Section Chief, Family Support and Dispute Resolution, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Accountability and Data, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE