

Franklin Legal, LLC

[REDACTED]

[REDACTED]

[REDACTED]

April 18, 2025

Ms. Jessica Williams, M. Ed.
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

RE: [REDACTED]

Reference: #25-288(a)

Dear Parties:

The independent investigator assigned by the Maryland State Department (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), has completed the investigation complaint regarding special education services for the above-referenced student. This correspondence is the report on the final results of the investigation.

The independent investigator investigated the following allegations:

1. MSDE has not ensured that MCPS has completed corrective action ordered in the Letter of Findings in complaint 22-172 as required by 34 CFR § 300.149 with respect to ensuring that students receive the supplementary aids and services that are on student IEPs; receive proper Prior Written Notice of decisions made during IEP meetings, receive the services and related services required by their IEP, and have goals, supplementary aids or services, or accommodations addressing all areas of need identified by the impact statement, present levels or other areas of the student's IEP.

2. MSDE has not ensured that proper procedures were followed when responding to a State complaint filed by the complainant on September 26, 2024 (complaint 25-077).

Specifically, MSDE did not review all relevant evidence and make an independent determination as to whether IDEA violations occurred, and did not address the future

provision of services for all children with disabilities in accordance with 34 CFR §§ 300.151, 300.152, and COMAR 13A.05.01.15.

3. MSDE has not followed proper monitoring procedures regarding implementation of 34 CFR §§ 300.101 (FAPE), 300.305 (Additional requirements for evaluations and reevaluations), 300.323 (When IEPs must be in effect), and 300.324 (Development, review, and revision of IEP), in accordance with 34 CFR § 300.600.

BACKGROUND:

The student is 16 years old and is identified as a student with Specific Learning Disability (SLD) and is eligible for special education services 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. Complaint 22-172 was filed on May 31, 2022 and the Letter of Findings was issued on July 29, 2022.
2. The Letter of Findings in complaint 22-172 required MCPS to provide evidence to MSDE that all Student-Specific corrective action was completed no later than October 1, 2022. MCPS provided the final documentation that this corrective action had been completed to MSDE on May 3, 2023. MCPS was also required to provide evidence of School-Based corrective action, specifically monitoring reports, that were due on December 1, 2022, March 1, 2023, and June 1, 2023. Each monitoring report was received by MSDE prior to or on the established deadline.
3. A closing letter was issued for complaint 22-172 on June 7, 2023.
4. Complaint 25-077 was filed on September 26, 2024 and the Letter of Findings was issued on November 25, 2024.
5. The Letter of Findings addressed each allegation and included specific facts related to each allegation that supported the findings. There was extensive IEP
6. MSDE determined that there was no violation with respect to Development and Implementation of the IEP, Addressing the Lack of Progress Toward IEP Goals, Proper Procedures When Responding to a Request for an IEP Meeting, Addressing Parent Concerns, and Provision of Prior Written Notice of the IEP Decisions.
7. MSDE determined that there was a violation with respect to Measurable IEP Goals.
8. The Letter of Findings included both Student-Specific and School-Based corrective action to address the Measurable IEP Goals violation. MCPS was ordered to revise the student's goals to ensure they are measurable, convene an IEP meeting to

determine whether the failure to include measurable goals in the IEP had a negative impact on the student's ability to benefit from the educational program, and, if so, determine the amount of compensatory services or other remedies to redress the violations within a year of the date of the Letter of Findings (November 23, 2025). MSDE was also ordered to take steps to ensure that the staff at [REDACTED] properly implements the requirements for the development of measurable annual goals under the IDEA, and to provide staff development to achieve this. Documentation of this was to be provided to MSDE by February 22, 2025.

9. The Letter of Findings in complaint 25-077 provided information about what steps to take if there were concerns about the accuracy of the findings of the investigator. Specifically, the LOF provided that MSDE "will not reconsider its findings unless new, previously unavailable documentation is submitted and received by this office within fifteen days of the date of this correspondence." The LOF goes on to say that "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."
10. MSDE has a "Standard Operating Procedure" for its investigators that includes steps to take from the outset of an investigation through its conclusion.
11. The investigator followed the "Standard Operating Procedure" during the investigation of complaint 25-077.
12. MSDE has a monitoring system in place to ensure that school districts satisfy IDEA requirements. This system includes components to increase the level of monitoring and technical assistance provided to school districts failing to meet IDEA compliance standards. MSDE has increased the level of monitoring and technical assistance provided to MCPS based upon findings made in recent monitoring activities. MCPS is currently in the "Focused" Tier of General Supervision and Support and is monitored for compliance with IDEA requirements every two years. MCPS was most recently monitored for the 2023-2024 school year.

DISCUSSION/CONCLUSIONS:

ALLEGATION #1

FAILURE TO ENSURE COMPLETION OF CORRECTIVE ACTION

The complainant alleges that MSDE did not ensure that MCPS completed the corrective action ordered in complaint 22-172 with respect to ensuring that students receive the supplementary aids and services that are on student IEPs; receive proper Prior Written

Notice of decisions made during IEP meetings, receive the services and related services required by their IEP, and have goals, supplementary aids or services, or accommodations addressing all areas of need identified by the impact statement, present levels or other areas of the student's IEP.

34 CFR § 300.149 requires MSDE to have policies and procedures in place to make sure that all requirements of the IDEA are carried out by school districts and that monitoring and enforcement is carried out under 34 CFR § 300.600. Additionally, 34 CFR § 300.152 requires that when the state education agency (SEA) finds a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address both the failure to provide appropriate services, including corrective action appropriate to address the needs of the child, and the appropriate future provision of services for all children with disabilities.

MSDE received evidence of completion of both Student-Specific and School-Based corrective action ordered in 22-172 in accordance with the deadlines in the Letter of Findings. Based on Findings of Fact #1, #2, and #3, the independent investigator finds no violation with respect to Allegation #1.

ALLEGATION #2 FAILURE TO FOLLOW PROPER INVESTIGATION PROCEDURES

The complainant alleges that MSDE did not follow proper procedures while investigating complaint 25-077, specifically by failing to review all relevant evidence and making an independent determination as to whether IDEA violations occurred, and did not address the future provision of services for all children with disabilities in accordance with 34 CFR §§ 300.151, 300.152, and COMAR 13A.05.01.15.

34 CFR § 300.152 requires that the state education agency (SEA) carry out an independent investigation, give the complainant the opportunity to submit additional information about the allegations in the complaint, provide the public agency an opportunity to respond, review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the IDEA, and issue a written decision that addresses each allegation in the complaint and contains findings of fact and conclusions as well as the reasons for the SEA's final decision. If the SEA finds a failure to provide appropriate services, 34 CFR § 300.151 requires the SEA to address the failure to provide appropriate services, including corrective action appropriate to address the needs of the child as well as the appropriate future provision of services for all children with disabilities.

The Letter of Findings for complaint 25-077 addresses each of the allegations made in the complaint and contains findings of fact and conclusions, as well as the reasons for the SEA's final decision. A particular challenge in making these findings was the wide variance in the student's levels of academic achievement and functional performance (PLAAFP) and other assessments as well as the fact that many of the student's IEP goals were not measurable, as MSDE determined. There is no evidence that MSDE failed to make an independent determination as to whether IDEA violations occurred in this matter.

In the Letter of Findings for complaint 25-077, it is clearly stated that these findings are considered final "new, previously unavailable documentation is submitted within 15 (15) days of the date of this correspondence." No additional documentation was submitted within that time frame. If the complainant believed that the findings in the complaint were inaccurate, the appropriate remedy for this would have been to submit additional information if such information existed, or, in the alternative, to file a due process complaint. Disagreement with the outcome of the investigation does not mean that improper procedures were utilized during the investigation process. The filing of a complaint against MSDE is not an appropriate remedy to address the outcome of an investigation unless the investigation process was inappropriate.

Based on Findings of Fact #5 through #11, the independent investigator finds that MSDE followed appropriate complaint investigation procedures and therefore finds that no violation occurred with respect to Allegation #2.

ALLEGATION #3 FAILURE TO FOLLOW APPROPRIATE MONITORING PROCEDURES

MSDE monitors MCPS in all areas required by the IDEA every two years. The most recent monitoring results can be found in the "Montgomery County Public Schools Performance Monitoring Report" for the 2023-2024 school year.

Based on Finding of Fact #12, the independent investigator finds that MSDE has satisfied its requirements under 34 CFR § 300.600. Therefore, there is no violation with respect to Allegation #3.

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 (15) 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. 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,

Michael Franklin
Independent Investigator

c: Thomas Taylor, Superintendent, MCPS
Kia Middleton-Murphy, Director of Special Education Services, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Craig Meuser, General Counsel, MCPS
Dr. Antoine L. Hickman, Assistant State Superintendent, Division of Early Intervention and Special Education Services, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
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 Branch, MSDE