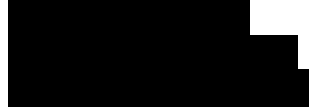



May 2, 2025




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

RE: 
Reference: #25-293

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education, 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 March 6, 2025, MSDE received a complaint from , 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 allegations that:

1. The MCPS has not ensured that the student’s Individualized Education Program (IEP) contains a Present Levels of Academic Achievement and Functional Performance (PLAAFP) statement that complies with required components since March 2024, in accordance with 34 CFR § 300.320.
2. The MCPS has not developed and implemented an IEP that addresses the student’s identified behavioral needs since the start of the 2024-2025 school year, in accordance with 34 CFR §§ 300.323 and 324.
3. The MCPS has not ensured that the student has received the reading intervention, support, services, and accommodations required by the IEP since March 2024, in accordance with 34 CFR §§ 300.101 and 300.323.
4. 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 20, 2025, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.

5. The MCPS did not follow proper procedures when disciplinarily removing the student from school in September 2024, and October 2024, to December 2024, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10.
6. The MCPS did not follow proper procedures when responding to a request for an Independent Education Evaluation (IEE) for the student in February 2025, in accordance with 34 CFR § 300.502.

BACKGROUND:

The student is 10 years old and is identified as a student with Multiple Disabilities (Attention-Deficit/Hyperactivity Disorder, Specific Learning Disability, and Emotional Disability) under the IDEA. The student attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 and #3

**A STATEMENT OF THE PRESENT LEVELS OF ACADEMIC
ACHIEVEMENT AND FUNCTIONAL PERFORMANCE (PLAAFP) and
PROVISION OF READING INTERVENTION, SUPPORT, SERVICES, AND
ACCOMMODATIONS**

FINDINGS OF FACT:

1. The IEP in effect March 2024, was developed on May 31, 2023, and amended on February 26, 2024. The IEP reflects reading fluency, reading phonics, written language expression, self-management, social interaction skills, work completion, and fine motor as areas impacted by the student's disability.
2. The February 26, 2024, amended IEP requires the student to be provided with 12 hours and 30 minutes weekly of specialized instruction inside of the general education setting to address his needs in behavior, self-management, and work completion, two hours per week outside of the general education classroom, including two 30-minute sessions of reading intervention to support reading fluency, and 30 minutes a month of Occupational Therapy (OT) outside of the general education classroom as a related service.
3. On May 30, 2024, the IEP team convened to develop a new IEP. The IEP reflects organization, reading fluency, reading phonics, written language expression, self-management, social interaction skills, work completion, and fine motor as areas impacted by the student's disability. The IEP includes goals addressing all of these impacted areas, except fine motor skills.
4. The IEP team determined the student's service hours would continue from the previous IEP.
5. The IEP requires that the student to be provided with instructional support, program modifications, social/behavioral supports, physical/environmental supports, to access the general education curriculum.
6. There is documentation that the student received instructional support, program modifications, social/behavioral supports, and physical/environmental supports required by the IEP. Additionally, the teaching team noted that there were often times when the student would refuse the support, rip up the modified materials, or decline the accommodation.

7. The February 26, 2024, and May 30, 2024, IEPs required the implementation of a Behavior Intervention Plan (BIP); however, the IEPs reflect that the Functional Behavioral Assessment (FBA) and the BIP were last conducted on October 10, 2021.
8. The May 30, 2024, reading phonics present level of academic achievement and functional performance (PLAAFP) reflects:

Teacher reports, small group data, report cards, and MAP-R¹ results were used to note the following: The student can “read words with digraphs, 2-sound blends, trigraphs, two-syllable words where both syllables are closed and read two-syllable words with closed and open syllables. He is working on decoding three-syllable words where both syllables are closed and three-syllable words with closed and open syllables. [REDACTED] thrives in small groups and has become a leader in his decoding group. He is one of the first to understand and grasp new concepts and apply them to his reading. He has been able to increase his reading fluency and comprehension. He is reading 2nd-grade material in a small group, but he has increased his accuracy to 98%. He is working to apply the same level of fluency and accuracy to 4th-grade material,” however, he is reported to be performing at a fourth grade level.

- MAP: Fall score - 194, 44th percentile, Winter score - 198, 39th percentile, Spring score - 207, 73rd percentile.
- Lexile Reading Level: 725L - 875L, on grade level based on MAP.
- 3rd Quarter Report Card: Foundational Skills= A, Comprehension: Informational Text and Literature= B, Language: Vocabulary Acquisition and Use= A, Overall = A
- Level of performance: 4th grade.

While the PLAAFP does provide data towards the student’s current abilities, it lacks a clear statement of how the student is currently performing in relation to grade-level expectations. It does not clarify the gap between the student’s current reading performance on the 4th-grade level, reading material on the 2nd grade level, and the expected 4th-grade reading standards, as the IEP reflects, the student is “working to apply the same level of fluency and accuracy to 4th-grade material ” and the PLAAFP does not explanation of how his disability affects his involvement and progress in the general education curriculum.

9. The May 30, 2024, reading fluency (PLAAFP) reflects:
Teacher report, observation, and MAP-R results were used to note the following:
“[Teacher] reports that the student has really strong comprehension when a text is read aloud to him. He is also able to demonstrate his comprehension orally. She states that [Student] is performing slightly below grade level when it comes to reading grade-level text accurately and fluently. He makes some errors when reading out loud, but it usually does not affect his understanding of the text. When asked questions based on text, [Student] is able to navigate to the part of the text to find the answer.”
- MAP: Fall score - 194, 44th percentile, Winter score - 198, 39th percentile, Spring score - 207, 73rd percentile.
 - Lexile Reading Level: 725L - 875L, on grade level based on MAP.
 - 3rd Quarter Report Card: Foundational Skills= A, Comprehension: Informational Text and Literature= B, Language: Vocabulary Acquisition and Use= A, Overall = A
 - Level of performance: Beginning of 4th grade level.

¹ Measures of Academic Progress in Reading.

While the present level includes data on the student's academic strengths, assessment results, and current instructional level, it does not provide sufficient qualitative or quantitative information about the gap between his current reading performance and grade-level expectations. Specifically, the phrase "slightly below grade level when it comes to reading grade-level text" lacks detail about the specific skills or benchmarks where his needs are.

10. The May 30, 2024, written language expression (PLAAFP) reflects:

Informal assessment, teacher reports, classwork, and observation were used to note the following: "[Student's] ideas and development, and voice are areas of strength for his written expression. He is able to tell a teacher what he wants to write in complex sentences that are organized. His organization and word choice are satisfactory. Two areas that are of concern with his writing are sentence fluency and conventions. [Student] has been using word prediction software that he has been successful with. He will also have a teacher scribe for him. We will continue to work with [Student] on using the speech-to-text tool on his Chromebook so that he may become more independent with written responses. [Student] has begun to use graphic organizers to support his writing.

When he is not doing an extended piece of writing, we have begun to use special lined paper with an erasable pen, and [Student] has been very successful at writing 3-5 sentences at a time. He needs larger paper, with larger lines and different colors or textures to help him write in a legible way. An erasable pen has helped him with the flow of writing, making it easier for him."

- 2023-2024 3rd quarter- Writing Grades: Overall= A, Informative/Explanatory, Narrative, Opinion=A, Process, Production, and Research= A, Use of Language= B
- Level of performance: Beginning of 4th grade level.

11. The May 30, 2024, organization (PLAAFP) reflects:

Parent report, teacher report, and observation were used to note the following: "[Student's] mom reported concern for his organization and inability to bring home schoolwork or necessary papers each day. Mom explained he needs a lot of help learning a system for collecting his work, packing and unpacking his things at school and building more independence so he is ready for middle school. [Student's] teachers have also reported concerns about his organizational abilities. He needs significant support organizing all of his materials, taking home necessary materials and bringing back schoolwork or necessary papers from home. All long-term projects need to be kept on the teacher's desk, or they will get lost."

- Level of performance: Below grade level expectations.

While the present level includes input from the parent, teacher, and classroom observations, it lacks qualitative and or quantitative data on the student's strengths, as well as information about the student's developmental or instructional level in comparison to age-based expectations. Additionally, the PLAAFP does not explain how disability affects the student's involvement and progress in the general education curriculum.

12. The May 30, 2024, social interaction skills (PLAAFP) reflect:

Teacher reports, observations, and BIP data were used to note the following:

"[The student's] social interaction skills have improved this year. He has made good friendships and been able to work through some conflicts when he is regulated. He is not showing as much aggressive behavior towards peers as he did towards the beginning of the year. In class, he is able to get along with classmates he likes and work with them. However, [Student] still struggles with appropriate interactions when it is unstructured. During recess, he will still have outbursts during any organized game if he does not like a call or does not get his way. These outbursts are towards his 1 on 1 and his peers. When [Student] is with his preferred adult, he is able to express why he does or does not like things or why he will not do certain things. [Student] benefits from set and consistent expectations. He benefits from consistent incentives, such as helping in PEP when he finishes work. Group and partner work is still difficult for [Student] unless it is with his preferred peer."

- Level of performance: Below age expectations.

While the PLAAFP notes that BIP data was used, the IEP reflects that the student's BIP was developed in 2021. The PLAAFP does not quantify the frequency or intensity of the behaviors described to inform the development of an IEP.

13. The May 30, 2024, self-management (PLAAFP) reflects:

Teacher reports and observations were used to note the following:

[Student] has made a lot of progress this year in terms of self-regulation. When he is asked to do something that he doesn't want to do, he will still get upset but has improved his ability to calm down. [Student] still needs a lot of support in regulating emotions when he does become upset, but he is improving at excusing himself from situations that will make him upset and will return when he calms down. He does well when he has a strong relationship with his teacher and really benefits from structured and consistent expectations. [Student] is much more open to coping strategies for his anger and frustration. I have seen him begin to apply some."

- Level of performance: Below age expectations.

The PLAAFP relies on limited data to describe the student's current abilities; it does not identify the student's specific needs, include any behavioral data (e.g., frequency, duration, or intensity of dysregulation episodes).

14. The May 30, 2024, work completion (PLAAFP) reflects:

Teacher report, classwork, and observations were used to note the following:

"[Student] has significantly improved with his classwork completion. He has been given the opportunity to help younger students when he completes his work, and it has helped motivate him. If he does not like a topic, he needs extra support to complete his work, but with consistent expectations and structure, [Student] has improved in finishing work. [Student] has benefited from having must-do and may-do expectations. He is not required to do all the busy work but is required to complete the most important parts of every assignment, and he does that 90% of the time. He has benefited from a very calm 1 on 1 who helps him with all the scribing for any extended writing or note taking."

- Level of performance: Below age expectations.

15. The May 30, 2024, fine motor (PLAAFP) reflects:

Clinical observations, work samples, and teacher reports were used to note the following: OT service has been delivered with a combination of pull-out sessions or plugging into the classroom and following up with the team. [Student] has done well this year. He has worked on copying a sentence

on raised-line paper with a preferred gel pen. Given verbal encouragement, he has been focused and willing to work. [The student] has shown carryover with letter sizing and placement and has worked on identifying reversals on a worksheet. The school team has been provided with adapted paper to trial in the classroom in addition to the gel erasable pen and a finger spacer ruler.

Strengths:

- Good motor control to use various classroom tools
- Use of strategies and carryover
- Has been introduced and is willing to use Chromebook for output

Needs:

- Continued monitoring and support as needed to help modify and adapt the environment to help with engagement in writing activities
- Level of performance: Slightly below age expectancy.

16. The May 30, 2024, the Impact Statement of the PLAAP reflects that the student's "multiple disabilities affect him in the areas of reading-phonics, reading fluency, written expression, self-management, social skills, and work completion." However, it does not reflect how his disabilities "affect his involvement in the general education curriculum."

17. The student's June 11, 2024, report of progress in the area of reading phonics reflects that the student is "making sufficient progress to meet the goal" with 65% accuracy.

18. The student's November 4, 2024, January 28, 2025, and March 28, 2025, report of progress in the area of reading phonics, reflects that the student is not making sufficient progress to meet goal due to lack of attendance and "[the student] choosing not to attend his reading intervention small group."

DISCUSSION AND CONCLUSION:

Statement of the present level of academic and functional performance (PLAAFP)

In this case, the complainant alleges the IEP lacks cohesion between the student's present levels of performance and their instructional grade level. It does not include a discussion of functional performance, and while several sources, such as parent input, student input, classroom-based assessments, direct assessments, and general education teacher input, are listed as "considered", they are not clearly reflected or explicitly represented in the present levels of performance.

The PLAAFP statement should include the following components: a description of the student's current academic achievement, strengths and needs, 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 May 30, 2024, IEP does not provide the required PLAAFP statement in the areas of reading phonics, reading fluency, written language expression, social interactions, and self-management. The PLAAFPs do not provide a description of the student's current academic achievement, strengths and needs, 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. In addition, they do not reflect how the student's disabilities affect his involvement in the general education curriculum.

Based on Findings of Fact #8 through #13, and #16, MSDE finds that the MCPS has not ensured that the student's IEP contains a PLAAFP statement that complies with required components since March 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

Provision of reading intervention, support, service, and accommodation

In this case, the complainant alleges that the student was unable to attend his reading intervention due to behavioral concerns, in which he was on a modified schedule, resulting in the complainant having to pick him up early, or bring him to school late, which caused the student to miss his reading intervention services.

Based on Findings of Fact #2, #5, #6, and 18, MSDE finds that the MCPS has ensured that the student has received the reading intervention, support, services, and accommodations required by the IEP since March 2024, in accordance with 34 CFR §§ 300.101 and 300.323. Therefore, MSDE does not find a violation.

ALLEGATIONS #2, #4, and #6 IEP THAT ADDRESS THE STUDENT'S NEEDS PROVISION OF IEP DOCUMENT FIVE DAYS PRIOR TO IEP MEETING RESPONDING TO A REQUEST FOR AN IEE

FINDINGS OF FACT:

19. There is documentation of the student exhibiting behaviors since the start of the 2024-2025 school year, including work avoidance, physical aggression toward staff, refusal to transition, signs of "anxiety", excessive time out of class due to behavior, destroying personal items of school and staff, and eloping. The student often requested "to go home" when he was "feeling bad" and would refuse services and supports offered by staff.
20. While there is documentation that the school team met with the complainant between September and October to discuss strategies to support the student in response to his behaviors and dysregulation, including the implementation of new supports such as a 'flash pass'. There is no documentation that the IEP team convened to update the student's IEP or BIP to reflect the new supports.

21. On October 14, 2024, the complainant emailed the school administrator concerning an October 11, 2024, incident in which the student was dysregulated and refused to attend class. The complainant informed the school administrator that the student has been having a “difficult time” with his emotions for the past three to four weeks and was taken off his mood stabilizer.
22. The IEP in effect at the start of the 2024- 2025 school year was developed on May 30, 2024.
23. The IEP reflects the student required IEP goals in the areas of self-management and social interaction skills to address his behavioral needs.
24. The self-management goal states: “Given explicit expectations, adult support and modeling, with the provision of a visual menu of coping strategies verbal and visual cues, scheduled breaks, a calming space in the classroom, flexible seating, and reinforcement, [Student] will decrease his classroom disruptions and use his strategies and tools to manage his frustration in the classroom environment in 4 out 5 trials by May 2025.”
 - Method of Measurement: Observation Record
 - Criteria (Mastery and Retention) with: 4 out of 5 trials.

The student’s June 11, 2024, report of progress for self-management reflects that the student is “making sufficient progress to meet the goal” in 3 out of 5 trials by removing himself from the situation and going to a safe place to decompress and regulate.

The student’s November 4, 2024, report of progress reflects the student “not making sufficient progress to meet the goal”. He had not attended a full reading class since the second week of school, providing limited data from his reading/writing teacher. When present, his behavior ranged from participating to ripping materials, refusing, or eloping.

It is also noted his math attendance was more consistent, but his self-management varies. The student prefers solving problems his own way and becomes frustrated and dysregulated by sometimes ripping papers when asked to use a different method. He occasionally works with the teacher when redirected early, but he struggles with flexibility, even when alternate methods are explained as necessary for assessments. He uses the calming space daily and rarely sits at his desk for the full class.

The January 28, 2025, and March 28, 2025, progress reports reflect that the student is “making sufficient progress to meet the goal.” The student continued to show inconsistency with this goal, but increased effort and progress have been noted. He has attended all classes consistently and follows a schedule that includes preferred activities and modified expectations, such as a reduced number of questions. The teachers report that early intervention helps prevent frustration, and the student was beginning to participate more using expected methods, often supported by a 'First/Then' strategy. Approximately 25% of the time, he waits for instructions and completes modified assignments, while around 30% of the time, he becomes frustrated but is able to return to the task. Notably, he is spending more time at his desk rather than in the calming space during math.

25. The social interaction skills goal states: “Given explicit expectations, modeling of appropriate verbal interactions, verbal and visual cues, calm-down strategies, and opportunities for practice with adult support, [student] will communicate and interact appropriately with peers and adults in 4 out of 5 trials by May 2025.”

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

The student's June 11, 2024, report of progress in the area of social interaction skills reflects that the student is "making sufficient progress to meet the goal" in 3 out of 5 trials by removing himself from a situation when he is frustrated, with choices and benefits from having preferred adults help him whenever possible.

The student's November 4, 2024, progress report reflects that he is "not making sufficient progress to meet the goal," as it includes repeated comments from the self-management goal indicating that he has become more particular about whom he wants to work with and continues to become frustrated when paired with peers who do not share his views or ideas.

The January 28, 2025, and March 28, 2025, progress reports reflect that the student is "making sufficient progress to meet the goal." He still becomes frustrated when paired with peers who do not share his ideas; however, he has begun working on becoming more flexible, particularly after taking a self-initiated break or following redirection from the teacher. He has shown improvement in accepting help when confused—accepting assistance approximately 50% of the time, while the other 50% of the time he tells the teacher to go away, stating he will 'do it on his own.'

26. On November 21, 2024, the IEP team convened to conduct Re-Evaluation Planning. Additionally, the team discussed the re-entry plan for the student's modified schedule. The complainant also requested an update to the Social Emotional Special Education Services consult, referencing a request she had previously sent to a member of the IEP team on October 23, 2024. During the meeting, the team determined that updated assessments would be conducted in the areas of educational performance, functional behavior, fine motor skills, and psychological functioning to assess the student's current functioning.
27. On November 21, 2024, MCPS generated a Notice and Consent for Assessment for the student to receive educational, functional behavioral, psychological, and occupational therapy assessments to determine the student's present levels of performance and areas of need. The complainant signed the consent on November 22, 2024.
28. On February 11, 2025, MCPS conducted an Occupational Therapy Assessment.

On February 13, 2025, MCPS conducted an Education Assessment.

On February 17, 2025, MCPS conducted a Psychological Assessment.

On February 19, 2025, MCPS conducted a Functional Behavioral Assessment (FBA) Summary Report.
29. The FBA summary report notes that the student has a history of engaging in inappropriate behaviors when he becomes frustrated in class. These behaviors include making growling noises at teachers, throwing materials, eloping from the classroom, and exhibiting general disruptive or verbally aggressive behavior. During the current school year, the student has demonstrated physical aggression toward staff members and/or administration on three occasions. The student has missed a significant amount of instructional time regulating his behavior.

30. On February 6, 2025, MCPS generated a Notice of IEP Team Meeting for an IEP meeting to be held on February 20, 2025, to review and, if appropriate, revise the IEP.
31. On February 17, 2025, a member of the IEP team emailed the complainant the educational assessment. The email reflects the IEP team member was hoping to send the FBA and psychological assessment to the complainant, however, she had not received the final copies and would send them as soon as possible.
32. On February 18, 2025, the complainant emailed members of the IEP team requesting to reschedule the February 20, 2025, IEP meeting because she did not receive all required documents "(psychological evaluation, FBA, BIP)" in advance, and the educational report was sent late, violating the five-day notice requirement under COMAR and IDEA. She requested a new meeting date after receiving all evaluations with enough time for review.
33. On February 18, 2025, the complainant requested an Independent Educational Evaluation (IEE) for the following assessments:
 - Comprehensive Psychoeducational Assessment
 - Executive Functioning Evaluation
 - Dyslexia, Dysgraphia, and Written Expression Testing
 - Occupational Therapy (OT) Evaluation for Fine Motor and Writing Difficulties
 - Speech-Language Evaluation.
34. On February 20, 2025, a member of the IEP team emailed the complainant the psychological assessment and informed her that the IEP team was in the process of rescheduling the IEP meeting to review the assessments.
35. On February 27, 2025, via email, the complainant received the FBA Summary Report, the Behavior Intervention Plan (BIP), and the educational assessment.
36. On March 6, 2025, the IEP team convened to conduct the reevaluation determination meeting for the student. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team attempted to review the FBA/BIP, as well as the updated psychological, educational, and occupational therapy reports. However, per the request of the complainant's educational advocate, the meeting was "tabled" due to the absence of the author of the educational assessment.
37. On March 20, 2025, MCPS generated a Notice of IEP Team Meeting for April 7, 2025, to consider the reevaluation to determine the need for additional data, review services, and/or determine continued eligibility.
38. On April 2, 2025, via email, MCPS responded to the complainant that "because the IEP team has not yet completed the evaluation of the student, your request for an independent evaluation cannot be considered at this time as it does not meet the requirements under the federal law."
39. On April 7, 2025, the PWN reflects that the IEP team convened, however, the meeting was "stopped" per the complainant and the educational advocate so that the "school psychologist could conduct and enter a formal parent interview date on Form 336-67 (Emotional Disability).

40. On April 11, 2025, the IEP team reconvened to continue the reevaluation determination meeting, which included a review of the updated psychological, educational, FBA/BIP, and OT reports. The PWN reflects that the IEP team reviewed the educational, psychological, OT, and FBA reports. During the meeting, the team discussed whether the student continued to qualify as a student with multiple disabilities by reviewing the eligibility criteria for emotional disability, specific learning disability (SLD), and other health impairment (OHI).
41. The PWN reflects that the complainant and her educational advocate disagreed with the IEP team's conclusion that the student continued to qualify under the emotional disability category, stating that the student's dysregulation is a result of the school environment. The IEP team reviewed the SLD eligibility form and determined that the student met the criteria for a SLD. The team also reviewed the OT report and found the student eligible for continued occupational therapy services. Based on the findings of ADHD (under OHI) and SLD, the IEP team recommended continued eligibility under the category of Multiple Disabilities.
42. On April 11, 2025, the complainant received a copy of the OT assessment that had been reviewed during the IEP meeting held on the same day.
43. On April 11, 2025, the complainant emailed the IEP team a formal disagreement with the IEP team's determination that the student met the criteria for emotional disability under IDEA due to "significant procedural and substantive concerns that impact the validity of the finding."
44. To date, there is no documentation that the IEP team has met to update the student's IEP based on the current assessments, and there is no documentation that a meeting has been scheduled.

DISCUSSIONS AND CONCLUSIONS:

IEP that addresses students' needs

In this case, the complainant alleges that the student has significant behavioral needs and struggles to manage his emotions. Additionally, the student's FBA and BIP are outdated, resulting in his behavioral challenges not being properly assessed, monitored, or addressed, ultimately impacting his ability to succeed in the general education curriculum.

Although there is documentation that the IEP team attempted to convene meetings on March 6, April 7, and April 11, 2025; to determine eligibility and update the student's IEP based on recent data, those meetings were canceled at the complainant's request. However, there is no documentation indicating that the IEP team met at any other point during the 2024-2025 school year to review and revise the student's IEP in response to his behavioral needs and his lack of progress on his annual IEP goals.

Based on Findings of Fact #19 through #33, #36 through #37, #39 through #41, #43- #44, and #49, MSDE finds that the MCPS has not developed and implemented an IEP that addresses the student's identified behavioral needs since the start of the 2024- 2025 school year, in accordance with 34 CFR §§ 300.323 and 324. Therefore, MSDE does find a violation.

Provision of five-day documentation

In this case, the complainant alleges that the IEP team did not provide her with all the pertinent documents and data they intended to discuss in the February 20, 2025, IEP meeting and this lack of information hindered her ability to participate meaningfully in the decision-making process.

School personnel must provide parents of students with disabilities an accessible copy of all assessments, reports, data charts, draft IEPs, or other documents the IEP team plans to discuss, at least 5 business days before the meeting (COMAR 13A.05.01.07).

Based on Findings of Fact #30 through #35, 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 20, 2025, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, MSDE does find a violation.

Notwithstanding the violation of the five-business-day requirement for document delivery, based on Finding of Fact #31, it is not applicable in this case because the complainant canceled the meeting. Therefore, no further student-specific corrective action is required.

Responding to a request for an IEE

Parents of a student with a disability have the right to obtain an independent educational evaluation at public expense when the parent disagrees with the public agency's evaluation. The public agency shall provide a written response approving or denying the request within thirty days of the date the request was made.

If the public agency approves the request, it must advise the parent of the process for arranging the evaluation at public expense. If the public agency denies the request, it must file a due process complaint within 30 days of the date of the denial. (COMAR 13A.05.01.14).

Based on Findings of Fact #33 and #38, MSDE finds that the MCPS did not follow proper procedures when responding to a request for an IEE for the student in February 2025 in accordance with 34 CFR § 300.502. Therefore, MSDE finds a violation.

Notwithstanding the violation, based on Finding of Fact #38, the MCPS did provide the complainant with a response, therefore, this allegation is not ripe. However, the MCPS must respond to the complainant regarding their decision to either fund the assessment or to request by May 2, 2025. At this time, the MCPS responded approximately 30 days ago. Since that time, the reevaluation process has not been completed.

ALLEGATION #5

DISCIPLINARY REMOVAL

FINDINGS OF FACT:

45. On September 9, 2024, the complainant received a voicemail² from the school requesting that she pick up the student due to his aggressive behavior toward school staff.

² Voicemail was transcribed for documentation.

46. On September 9, 2024, the student was suspended for two days due to “physical aggression towards a staff member.” However, the suspension was rescinded at a later date. There is documentation that the complainant was provided the suspension letter.
47. On September 10, 2024, the student’s attendance records reflect that he was suspended.
48. On October 23, 2024, the student was suspended for two days due to “physical aggression towards a staff member.” There is documentation of when the complainant received the suspension letter.
49. On October 24, 2024, the student’s attendance records reflect that he was suspended.
50. On October 24, 2024, the student was provided with a modified schedule to begin on October 28, 2024, and conclude on November 11, 2024, due to his behavior and to assist him in becoming regulated. This schedule was determined outside of an IEP meeting and not documented on the student’s IEP. Under this schedule, the student was to attend school starting at noon and remain until the end of the day, gradually working his way to attending school for a full day. His reading intervention was scheduled from 12:00 to 12:30 p.m. Although this adjustment was made to accommodate the student, he arrived at school at 12:30 p.m., missing the intervention. The schedule also indicated that the complainant would communicate any changes in consultation with the student’s mental health care team, particularly as his medication became more regulated.
51. The student’s attendance records reflect that the student was “Tardy Unexcused” from October 25, 2024, through December 4, 2024.
52. On October 28, 2024, via email, the reading specialist communicated with the complainant to inform her that she has “cleared her schedule to work with [Student] from 12:00- 12:30 as discussed.”
53. On October 28, 2024, via email, the school administrator followed up with the complainant to see if she had completed the Home and Hospital Teaching (HHT) Form that was sent to her, recommending she apply for the student.
54. The complainant responded to the email stating that she had researched HHT, did not understand the benefit it would provide the student, and preferred to continue with the previously discussed plan rather than apply for HHT.
55. On October 29, 2024, via email, the school administrator informed the complainant that “in order for us to continue working through the special education process, we need to formally document the fact that he is only coming for half of the day. Since you reached out to our special education supervisor, she reminded us that we need to ensure all proper channels are followed. The plan sounds good for us, and I’m sure it will be approved through the HHT application. Please let us know once you complete it.”
56. On November 4, 2024, via email, a member from the MCPS special education department informed the complainant that the IEP team would be scheduling an IEP meeting to discuss the student’s school schedule, and if she had any questions about HHT, she could reach out to her.
57. On November 21, 2024, the IEP team convened to conduct Re-Evaluation Planning. The PWN reflects that during the meeting, the IEP team discussed the student’s re-entry plan for the student to return on December 2, 2024, and the “discussion will continue during the allotted time for the

parent/ teacher conference in the afternoon.” The PWN reflects that the student will attend specials and math blocks on the half day.

The PWN also reflects that “when the student returns on December 2, 2024, for a full day, the reading specialist will announce her reading group intervention, and the student may opt to attend, but she will not announce his name.”

58. There is no documentation of who recommended that the student attend school for a partial day, or that the IEP team convened to amend the student’s IEP to address his needs during the time he was on a modified schedule or when the student returned to school for a full day to address his behavioral needs or concerns.

CONCLUSION:

In this case, the complainant alleges the student was suspended without explanation and denied a full day of instruction while on a modified schedule.

While the MCPS documentation reflects the student was not suspended October 28, 2024, through November 11, 2024, the school’s decision to implement a modified schedule requiring the student to arrive late due to behavioral concerns constitutes a disciplinary removal under 34 CFR §§ 300.530 and 300.531, as well as COMAR 13A.08.03.

All students are entitled to a full day of their educational program, unless a medical doctor or approved mental health professional makes a recommendation for home and hospital instruction. Placing a student on a partial day schedule removed the student from their regular instructional day and limited access to the general education curriculum without the procedural protections afforded under IDEA COMAR 13A.05.01.10.

Based on Findings of Fact #45 through #58, MSDE finds that the MCPS did not follow proper procedures when disciplinarily removing the student from school in September 2024, and October 2024 to December 2024, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10. Therefore, MSDE finds 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 manner³. 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.

³ 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 action⁴. 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 15, 2025, that the IEP team has taken the following action:

- a. Completed the reevaluation process, revised the IEP to include the most recent data, updated PLAAFP statements to be compliant with the findings of this letter; revised the IEP goals and positive behavior supports to ensure they address the student's behavioral needs;
- b. Determined the compensatory services needed to remediate the violations identified in this investigation; and
- c. Develop 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 an appropriate statement of the PLAAFP, provision of the five-business-day requirement for document delivery, and the procedures for disciplinary removals. 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 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.

⁴ 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 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 Special Education

ALH/sj

c: Dr. Thomas Taylor, Superintendent, MCPS
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, Director, Dispute Resolution and Family Support. MCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Director, Accountability and Data, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Stephanie James, Complaint Investigator, MSDE