

May 19, 2025

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-306

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 20, 2025, MSDE received a complaint from [REDACTED], hereafter “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the student.

MSDE investigated the following allegations:

1. The MCPS did not follow proper procedures when amending the Individualized Education Program (IEP) outside of an IEP meeting on August 16, 2024, in accordance with 34 CFR §§ 300.324 and .503. Specifically, the complainant alleged that:
 - The student’s IEP was amended to reflect changes including the services and school placement; and
 - The student’s Behavior Intervention Plan (BIP) was altered without her knowledge.
2. The MCPS has not developed an IEP that addresses the student’s identified behavior and occupational therapy needs since August 2024, in accordance with 34 CFR § 300.324. Specifically, the complainant alleged that:
 - The IEP does not reflect the student’s need for occupational therapy due to [REDACTED]; and
 - The student’s BIP was incomplete, altered, and not aligned with the Functional Behavior Assessment.

3. The MCPS has not ensured that the student was provided with math intervention and speech-language services as required by the IEP since August 2024, in accordance with 34 CFR § 300.323. Specifically, the complainant alleged that:
 - The student was not provided with the required math intervention until December 2024; and
 - The student has not received the required number of speech-language therapy sessions.
4. The MCPS has not ensured that the student's progress towards achieving the IEP goals were measured in the manner required by the IEP since August 2024, in accordance with 34 CFR § 300.320.
5. The MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since October 2024, in accordance with 34 CFR § 300.613.
6. The MCPS has not followed proper procedures when responding to a request to amend the student's education record since February 6, 2025, in accordance with 34 CFR §§ 300.618 - .621. Specifically, the complainant alleged that the MCPS declined to amend the PWN from the February 6, 2025, IEP meeting.

BACKGROUND:

The student is 13 years old and is identified as a student with Other Health Impairment (OHI) 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. There is documentation that the student has two Functional Behavior Assessments (FBA). Both FBAs are dated April 29, 2024. Both FBAs reflect a request date of February 23, 2024, and that parental consent was obtained on February 26, 2024. Both FBAs reflect team members from the student's previous school. Both FBAs reflect the student's behavior is significantly impacting student learning and include the same student background information and previous interventions that have helped the student in science and world studies classes. One FBA reflects the student's previous school as the service school, and the other FBA reflects [REDACTED] as the service school.

The target behavior in the FBAs is "Invading personal boundaries/Attention-Seeking Behaviors." These behaviors are defined as "kicking the chair of another student in response to the teacher working with another student, touching other students' property, using profanity when unable to express wants and needs, and invading personal body space by sitting too closely to peers." The data collection for this behavior is listed as observational data and a January 2024 psychological assessment. The FBAs reflect that during the required direct observation for the student on April 29, 2024, "[The student] was not available for the observation."

The antecedent analysis for the behavior reflects that the behavior "occurs across all settings within the school day when [the student] is not receiving 1:1 support, when he is trying to engage in peer interaction, [and] when he is trying to establish a friendship (socialization)." The consequence analysis reflects that "teachers have provided verbal and nonverbal redirection [by] restating expectations [and providing] direct and specifics requests - 2-3 reminders."

The potential function for the behavior is listed as "to gain attention" and "to avoid access to object or activity." The FBAs describe this as "He is trying to gain attention and avoid challenging academic demands (which may require independent work)."

The hypothesis for the behavior reflects “[the student] engages in the behavior when presented with tasks that he has determined are difficult. He struggles to start a task independently when he perceives the task as difficult. The function of the behavior is to avoid tasks and to seek adult interaction. The negative verbal interactions lead to work avoidance when presented with nonpreferred tasks.”

The FBAs reflect that a Behavior Intervention Plan (BIP) is needed.

2. There is documentation that the student has two BIPs. Both BIPs reflect that the FBA was completed on April 29, 2024, and the BIP was requested and completed on April 29, 2024. BIP#1 reflects the student’s service school as his previous school. BIP #2 reflects the student’s service school as [REDACTED].
3. BIP #1 includes identified team members as the counselor, psychologist, special education teacher and assistant principal. The BIP includes student background information and the defined target behavior definition reflects: “Behavior #1: Invading personal boundaries/Attention-Seeking Behaviors are defined as kicking the chair of another student in response to the teacher working with another student, touching other students’ property, using profanity when unable to express wants and needs, and invading personal body space by sitting too closely to peers.”

The prevention strategies required by the BIP include:

- *Behavior #1:*
 1. Positive Attention-Seeking Strategies—Implement a system where [the student] can earn positive attention for desired behaviors. Provide specific praise and recognition when [the student] appropriately seeks adult attention or assistance, reinforcing positive interactions.
 1. Checks in during independent work, and feedback and positive affirmations when he has done well on a task or asks for help in an appropriate way
 2. Reminders of expected behaviors when transitioning within class (activity to activity)
 3. Mood check-in (Temperature Gauge)- to check his levels of frustration, irritability, stress, or anxiety
 4. Processing parts of his day (How did the morning go? What went well? Where do you want to compliment yourself)
 5. Nonverbal during instruction (thumbs up for engaging in expected behaviors like raising hand instead of calling out, high fives, hugs when confirmed with peers or staff)
 6. Structured breaks where they are planned when he has completed or worked on tasks for mutually agreed upon times of number of items to complete
 7. positive email home with parent or note, to communicate success ([the student] can initiate as well)
 8. Advance notices of schedule changes
 2. Social Skills Building Through Role-Playing - Conduct role-playing activities focusing on appropriate ways to interact and engage with peers. Role-play scenarios can include practicing personal space boundaries, respectful communication techniques, and problem-solving without resorting to profanity. Contrive scenarios where plan A and plan B can be developed.
 1. Reminders of space
 2. Teachers and staff modeling expected behaviors
 3. teacher proximity when a student is working

4. Check-in with trusted staff
5. Perspective taking discussions before working in groups
6. Praise and positive reinforcement
7. [the student] will be provided with options and choices to self-regulate."

The teaching strategies required by the BIP reflect the following:

- **Behavior #1:**
"Replacement Behavior: [the student] will consistently demonstrate respectful behavior towards personal boundaries and peers, engage in socially appropriate interactions, and refrain from using profanity.
 - [The student] will use appropriate language during classroom structured conversations.
 - [The student] will maintain his personal space and keep his hands to himself.
 - [The student] will identify his setting and respond according to the use of his language, tone, and cadence.
 - [The student] will stop and listen to adults when they are supporting negative interactions instead of talking over adults.
 - [The student] will accept and apply feedback from peers and staff and adjust his behavior applying a coping strategy (draw, rest, read, timed break with trusted staff)."

The teaching strategies required by the BIP include:

- "Interventions -
 1. Individual check-ins with the student to provide positive attention and redirection when inappropriate behaviors arise.
 2. Providing clear boundaries and expectations for behavior frequently.
 3. Collaborating with the school counselor/psychologist/ and private therapist to deliver a consistent coherent plan.
 4. Implementing a visual cue system to remind the student of personal space boundaries.
 5. Daily temperature gauge for stress and anxiety, with followed-up feedback.
- Teaching and Practicing School-Ready and Social Skills—By teaching [the student] positive ways to seek attention and interact with peers, such as asking for help appropriately or engaging in group activities, [the student] can learn alternative ways to fulfill their social needs without invading personal boundaries or using inappropriate behavior.
 1. Reminder to raise hand (nonverbal, and verbal).
 2. Adult proximity.
 3. Planned questions or input to stay on topic in discussions.
 4. Specifically assigned roles with peer activities.
 5. Frontloading for working with non-preferred peers."

The response strategies required by the BIP include:

- "Behavior #1:
 1. Check-in with trusted adult
 2. Designated spaces (choices provided for [the student] to select from)
 3. Non-verbal and verbal redirection

4. Time to process situations
5. Group problem solving
6. Restorative conversations
7. Change in setting for peers or [the student]
8. Designated space to calm down"

The data collection and implementation required by the BIP reflects long-term data collection for 6-12 months. "[The student] will be reduced to 10 incidents per week. Frequency data will be collected daily by classroom teachers. If significant progress is made or goals are met, revisions in goals and strategies will be considered."

The choice of data collection reflects "frequency - data should have a clear start and a clear end."

The BIP reflects the names and titles of those responsible for progress monitoring.

The BIP reflects the complainant will be updated on progress quarterly.

The BIP does not list "materials, training, or other supports needed to implement the BIP."

The BIP does not reflect if a crisis plan, crisis plan protocol, or an explanation of why a crisis plan is not necessary.

4. BIP #2 reflects the identified team members as the counselor, psychologist, special education teacher and assistant principal. The BIP includes the reason for assessment, student background information and the defined target behavior definition. The target behavior operational definition reflects:
 - "Behavior #1: Invading personal boundaries/Attention-Seeking Behaviors are defined as kicking the chair of another student in response to the teacher working with another student, touching other students' property, using profanity when unable to express wants and needs, and invading personal body space by sitting too closely to peers."

The prevention strategies required by the BIP include positive attention-seeking strategies to be implemented where the student can earn positive attention for desired behaviors; and social skills building through role-playing that includes "[conducting] role-playing activities focusing on appropriate ways to interact and engage with peers. Role-play scenarios can include practicing personal space boundaries, respectful communication techniques, and problem-solving without resorting to profanity. Contrive scenarios where plan A and plan B can be developed."

The teaching strategies required by the BIP reflect the following:

"Replacement Behavior: [the student] will consistently demonstrate respectful behavior towards personal boundaries and peers, engage in socially appropriate interactions, and refrain from using profanity.

The teaching strategies required by the BIP include:

- "Interventions -
 1. Individual check-ins with the student to provide positive attention and redirection when inappropriate behaviors arise.
 2. Providing clear boundaries and expectations for behavior.

3. Collaborating with the school counselor/psychologist/ and private therapist to deliver a consistent coherent plan.
4. Implementing a visual cue system to remind the student of personal space boundaries.
- Teaching and Practicing School-Ready and Social Skills—By teaching [the student] positive ways to seek attention and interact with peers, such as asking for help appropriately or engaging in group activities, [the student] can learn alternative ways to fulfill their social needs without invading personal boundaries or using inappropriate behavior.”

The response strategies required by the BIP include:

- “Behavior #1: Positive reinforcement through praise, reward systems, and increased privileges for meeting behavioral goals. In the event of an episode calmly remove other students from the immediate area to reduce the need to react to gain more attention from peers and adults. Approach the student with a calm demeanor (tone of voice is very important) and guide them to a designated safe space for de-escalation.”

The BIP does not include data collection and implementation data, information on who is responsible for monitoring the students' progress or how often the student's parents would receive progress updates, or a list of materials, training, or supports needed to implement the BIP. The BIP does not provide a determination regarding the need for a crisis plan.

5. There is no documentation that the complainant provided consent to update the BIP, or that the BIP was developed at an IEP team meeting. Neither BIP reflects that it is a “draft.”
6. The IEP in effect for the student in August 2024 was developed on May 21, 2024. The service school required by the IEP is [REDACTED] School. The IEP reflects the student's primary disability as OHI, with math calculation, math problem solving, reading comprehension, reading fluency, speech-language articulation, speech-language expressive language, speech-language pragmatics, speech-language receptive language, written language content, written language expression, written language mechanics, self-management, social emotional/behavioral, and social interaction skills as areas impacted by the disability. The IEP reflects “[The student] remains eligible for special education under the disability, OHI, given his current and historical diagnosis of ADHD, Combined Presentation. [The student] also presents with symptoms of anxiety, depression, posttraumatic stress disorder, and accompanying social skill impairments. [The student] also meets MCPS criteria for Specific Learning Disabilities (i.e., [REDACTED], [REDACTED], and [REDACTED]) and a Speech or Language Impairment.

The IEP reflects the student as performing on the following instructional grade levels:

- Reading fluency, Reading comprehension, Math calculation, Math problem solving, Written language content, Written language mechanics, and Written language expression – “Grade 3;”
- Speech-Language articulation - “Within age expectancy- monitoring for maintenance of skill;”
- Speech-Language receptive language - “Below age expectancy for expressive, receptive, and pragmatic language;”
- Speech-Language expressive language - “Below age expectancy for expressive and receptive language;”
- Speech-Language pragmatics - “Below Age expectancy;”
- Social emotional/behavioral - “Below age level expectations;”
- Social interaction skills - “Below age expectancy;” and
- Self-management - “Below age expectancy.”

The IEP reflects the student "... has communication needs in the areas of speech intelligibility, pragmatic, and expressive language skills (word finding; understanding and using grammatical structures) that will be addressed through his speech- language goals and objectives." The IEP reflects the student requires the use of assistive technology (AT) devices but does not require AT services. "[The student] requires the use of technology including: speech to text, text to speech, and access to word processing tools for writing assignments."

The IEP requires the implementation of the following instructional and assessment accommodations:

- Spell Check or External Spell Check Device;
- Text to Speech for the Mathematics, Science, and Government Assessments;
- Graphic Organizer;
- Small group;
- Frequent breaks;
- Reduce distractions to self;
- Reduce distractions to others;
- Text to Speech for the ELA/Literacy Assessments, including items, response options, and passages;
- Calculation device and mathematics tools (on Calculation Sections of the Mathematics Assessments);
- Calculation device and mathematics tools (on NON-Calculation Sections of the Mathematics Assessments);
- Mathematics, Science, Government Response Speech-to-Text;
- ELA/L Constructed Response Speech-to-Text;
- Writing Tools; and
- Extended Time (1.5X).
- "[The student's] deficits in written language expression, attention, and self-management necessitate the accommodations indicated above. The accommodations should include word processor tool."
- "[The student's] deficits in attention and self-management necessitate the accommodations indicated above. This should include monitor test response as allowed by the given assessment."
- "[The student's] deficits in math problem solving, written language expression, attention, and self-management necessitate the accommodations indicated above. The discrepancy between [the student's] independent written expression and his ability to orally answer constructed responses is significant. He requires speech to text during testing situations to accurately reflect his knowledge."

The IEP requires the implementation of the following supplementary aids, services, program modifications, and supports:

- Daily:
 - Support of a scribe
 - "Due to [the student's] [REDACTED], he would benefit from the support of a scribe to assist with recording assignments as well as during long writing assignments."
 - Use of slant board
 - "[The student] will be offered the use of a slant board, in each class, to improve fine and visual motors, encourage proper posture, and sustain attention on a given task."

- Graph paper
 - “Graph paper should be issued to assist with the organization of math equations - [the student] needs support keeping longer problems aligned.”
- Pair verbal with visuals
 - “When instruction is provided verbally, provide a visual to support the instruction in all settings.”
- Allow use of manipulatives
 - “In all math classes, [the student] should have access to manipulatives (should differ in colors to better differentiate), including math tools (i.e., calculator, 3-dimensional shapes, and counting blocks), for all math tasks or as needed depending upon the lesson/content. [The student] should also have access to any additional manipulatives in other subject areas as needed (i.e., highlighter and sticky notes for annotating, line-reader tools, etc.).”
- Graphic organizers
 - “Provide organizers when taking notes, following procedures for assignments, writing assignments to support with organization of thoughts and/or process of introduced concept/task.”
- Provide student w/ copy of student/teacher notes
 - “[The student] benefits from a copy of teacher notes to aid in comprehension and decrease the need for lengthy written notes.”
- Samples and proofreading checklists to support accurate use of grammar when completing writing assignments
 - “All academic settings through the collaboration of the special educator, general educator, and/or paraeducator (instructional assistant). Provide [the student] with samples/exemplars and proofreading checklists to support accurate use of grammar when completing writing assignments.”
- Provide [the student] with accurate speech articulation models and opportunities for frequent imitation
 - “All academic settings through the collaboration of the special educator, speech pathologist general educator, and/or paraeducator (instructional assistant). Provide [the student] with accurate speech articulation models in the classroom and visual reminders for mastered sounds to improve carryover.”
- Use of word bank to reinforce vocabulary and/or when extended writing is required
 - “All academic settings through the collaboration of the special educator, general educator, and/or paraeducator (instructional assistant) to support with writing tasks as well as to support his response to open-ended questions.”
- Break down assignments into smaller units
 - “All academic settings through the collaboration of the special educator and general educator to support completion of tasks.”
- Menu of coping strategies
 - “When processing or managing frustrating situations [the student] should be presented with a menu of coping strategies to apply to his unique situations.”
- Social Stories
 - “Social stories should be used, as needed, to assist [the student] when he encounters social situations that cause anxiety or stress, i.e. - working in a group.”
- Strategies to initiate and sustain attention

- “[The student] requires specific strategies to sustain his attention within the classroom setting. He requires proximity control within 8-10 minute intervals, a reduction in multi-tasking requirements, explicit use of a timer (just for [the student]), and multisensory components when possible. Additional strategies to sustain attention include the use of a slant board and a stool to sit on to improve posture.”
- Check in with preferred/trusted adult
 - “Check [ins] from an identified trusted/preferred adult to review assignments/agenda book, hear about [the student's] day, check in on how he is, and provide a space, if needed, for a break.”
- Provide a visual list of accommodations
 - “A visual list with accommodations and feedback provided when accommodations are used. In addition to this, during instruction, refer to the accommodation sheet to support generalization of implementation of accommodations.”
- Preplanned partners for work in collaborative groups
 - “In all classroom settings, [the student] should be paired with a preferred peer to promote positive engagement. This should be purposeful grouping when the class is working with partners or in a small group.”
- Provide manipulatives and/or sensory activities to promote listening and focusing skills
 - “Provide in the classroom to support attention. These could include, but are not limited to, flexible seating, walking break, noise-canceling headphones, slant board, and fidgets, as appropriate, and have been successful in supporting attention in the classroom setting.”
- Monitor use of agenda book and/or progress report
 - “During each class period, the teacher and/or para educator will assist with completing the agenda book for each class to ensure the homework/assignments are recorded in the correct location.”
- Alternative seating- opportunities to stand or use of stool
 - “To improve [the student's] attention and/or posture across classroom settings, he will be encouraged to stand in class or sit on a stool.”
- Word processor
 - “Should be provided at all times when writing tasks are required to support him in getting thoughts out and organizing into written language assignments.”
- Encourage proper posture when sitting and standing to increase breath support.
 - “All academic settings through the collaboration of the special educator, general educator, and/or paraeducator (instructional assistant). Encourage proper posture when sitting and standing to increase breath support for clear speech production. The use of a stool to sit on can be encouraged to improve posture. The use of the slant board is encouraged to be used in conjunction to better assist this support.”
- “[The student] requires the following supplementary aids and services in order to meet his needs in the areas of reading, math, writing, speech-language, social interaction skills, and self-management skills.”
- Weekly
 - Frequent Check-ins
 - “[The student] should have check ins to help assist, review and practice processing difficult situations.”

The IEP reflects “there are suspected breakthrough opportunities in mathematics computation with increased consistent implementation of math intervention. The IEP reflects the student is eligible for extended school year (ESY) services.

The IEP includes the following goals:

- Math Calculation: “By May 2025, given fading adult support, small group instruction, immediate feedback, curriculum broken into small parts, math manipulatives exemplars, models, repeated practice, and visual supports, [the student] will apply mathematical operations in a variety of contexts in 4 out of 5 trials using curriculum-based assessments, work samples, and observations as criteria for the method of measurement.”

- Method of Measurement: Classroom-Based Assessment: student work samples, Curriculum-based assessments Observation Record
- Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Speech-Language Receptive Language: “By May 2025, [the student] will demonstrate an understanding of classroom material that includes semantic relationships, vocabulary, and recalling key details from the text with 80% accuracy.”

- Method of Measurement: Informal Procedures: data collection, observation, teacher report Observation Record
- Criteria (Mastery and Retention) With: 80 % Accuracy

This goal is not measurable as written. It does not include a criterion for retention.

- Speech-Language Pragmatics: “By May 2025, [the student] will demonstrate appropriate pragmatic language skills to meaningfully participate in class discussions and engage in conversation.”

- Method of Measurement: Informal Procedures: data collection, parent, and teacher report Observation Record
- Criteria (Mastery and Retention) With: 80 % Accuracy

This goal is not measurable as written. It does not include a criterion for retention.

- Reading Fluency: “By May 2025, given small group explicit and systematic instruction, verbal/visual cues, repetitive practice, modeling, immediate feedback, and opportunities for multi-sensory instruction, [the student] will read with sufficient accuracy and fluency to support comprehension in 4 out of 5 trials.”

- Method of Measurement: Informal Procedures: student work samples Classroom-Based Assessment: Oral Reading Fluency Assessment Observation Record
- Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Math Problem Solving: “By May 2025, given fading adult support, small group instruction, immediate feedback, curriculum broken into small parts, math manipulatives exemplars, models, repeated practice, and visual supports, [the student] will improve solving word problems using all four operations in 4 out of 5 trials using curriculum-based assessments, work samples, and observations as criteria for the method of measurement.”

- Method of Measurement: Classroom-Based Assessment: Curriculum-based assessments, student work samples Observation Record
- Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Written Language Expression: “By March 2025, given explicit instruction, teacher modeling, graphic organizers, exemplars, a teacher scribe, a writing process checklist, and a preferred assistive technology tool (i.e. speech to text, word prediction), [the student] will compose narrative, opinion, and informational writing assignments across all content levels in 4 out of 5 trials using work samples and curriculum-based writing assignments as criteria for the method of measurement.”
 - Method of Measurement: Informal Procedures: Work Samples Classroom-Based Assessment: curriculum-based writing assignments
 - Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Social Interaction Skills: “By May 2025, when given clear and explicit behavioral expectations, positive reinforcement and reminders, adult modeling, [the student] will engage in positive peer and adult interactions in 4 out of 5 trials using teacher feedback through observations as criteria for the method of measurement.”
 - Method of Measurement: Informal Procedures: Observation, behavior check in with staff Observation Record
 - Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Speech-Language Articulation: “By May 2025, [the student] will independently demonstrate age-appropriate intelligibility when speaking to various partners in the context of spontaneous conversation across three sessions with 100% intelligibility.”
 - Method of Measurement: Informal Procedures: speech-language therapy data, observation Record
 - Criteria (Mastery and Retention) With: 80 % Accuracy
- Speech-Language Expressive Language: “By May 2025, [the student] will independently produce a coherent narrative, demonstrating the accurate production of semantic vocabulary (i.e. spatial, sequential, time, and comparative vocabulary) as needed with 80% accuracy in the context of structured speaking tasks across three sessions.”
 - Method of Measurement: Informal Procedures: observation, teacher report, data collection Observation Record
 - Criteria (Mastery and Retention) With: 80 % Accuracy

- Reading Comprehension: “By May 2025, when given chunking of longer readings, text to speech, previewing of longer passages, modeling, and frequent feedback, [the student] will demonstrate understanding after reading or listening (i.e. audio recording or read-to) to a text with 70% accuracy using work samples and curriculum-based assessments as criteria for the method of measurement.”
 - Method of Measurement: Classroom-Based Assessment: curriculum-based assessments, student work samples
 - Criteria (Mastery and Retention) With: 70 % Accuracy

This goal is not measurable as written. It does not include a criterion for retention.

- Self-management (1): “By May 2025, when given explicit teacher expectations, instruction in problem-solving, opportunities for role play, positive reinforcement, and fading adult support,

[the student] will improve his motivation and focus during class instruction and when completing assignments in 4 out of 5 trials using teacher feedback through observations as criteria for the method of measurement.”

- Method of Measurement: Informal Procedures: Observation, quarterly teacher reports Observation Record
- Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Self-management (2): “Organization/executive functioning skills: By May 2025, given organizational support, teacher check-in, review of assignments/agenda book, and faded adult support, [the student] will utilize active learning strategies during instruction and independent academic tasks to increase his ability to organize his ideas in the academic setting in 4 out of 5 trials using teacher feedback through observations, assignment/agenda book review, work samples, and graphic organizers as criteria for the method of measurement.”

- Method of Measurement: Informal Procedures: teacher check-ins, review of assignment/agenda book, observations, work samples, graphic organizers Observation Record
- Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Written Language Mechanics: “By May 2025, given an editing checklist, direct instruction in using the checklist, text to speech, and feedback from an adult/instructor, [the student] will revise and edit for sentence clarity, word choice, spelling, punctuation, and capitalization in 4 out of 5 trials using work samples and curriculum-based writing assignments as criteria for the method of measurement.”

- Method of Measurement: Informal Procedures: rubric checklist Classroom-Based Assessment: work samples, curriculum-based writing assignments
- Criteria (Mastery and Retention) With: 4 out of 5 trials

This goal is not measurable as written. It does not include a criterion for mastery.

- Written Language Content: “By May 2025, given small group explicit and systematic instruction, verbal/visual cues, repetitive practice, modeling, immediate feedback, and opportunities for multi-sensory instruction, [the student] will apply a variety of strategies to encode more complex words while writing with 70% accuracy using curriculum based writing assignments, work samples, and observation as criteria for the method of measurement.”

- Method of Measurement: Informal Procedures: observation, quarterly teacher reports Classroom-Based Assessment: curriculum-based writing assignments, work samples
- Criteria (Mastery and Retention) With: 70 % Accuracy

This goal is not measurable as written. It does not include a criterion for retention.

- Social Emotional/Behavioral: “By May 2025, when given time to practice with an adult, opportunities for role play, direct expectations and feedback, and the ability to process through difficult situations, [the student] will learn strategies to manage feelings of anxiety and depression in 4 out of 5 trials using teacher feedback through observations as criteria for the method of measurement.”

- Method of Measurement: Informal Procedures: observation, teacher feedback
- Criteria (Mastery and Retention) With: 4 out of 5 trials

The IEP requires the following related services:

200 West Baltimore Street Baltimore, MD 21201 | 410-767-0100 Deaf and hard of hearing use Relay.

- Two, 20-minute counseling services outside general education provided by the school social worker or guidance counselor, monthly;
 - “[The student] requires direct support to work on his individual needs in the social-emotional area.”
- Two, 45-minute counseling services outside general education provided by the school social worker, monthly;
 - “Group counseling;” and
- Two, 45-minute session of speech-language therapy outside general education, weekly.

The least restrictive environment (LRE) required by the IEP is inside general education 80% or more of the school day.

The IEP does not require a math intervention.

7. There is documentation that on August 15, 2024, the student’s IEP was amended. The changes to the IEP reflect the following:
- The student’s least restrictive environment (LRE) was changed from inside general education 80% or more of the school day to inside general education 40% or more of the school day;
 - The student’s service school was changed from [REDACTED] School to [REDACTED] School; and
 - The student’s MCPS Program code was changed from “LAD [Learning and Academic Disabilities]” to “Bridge.”

There is no documentation that the complainant provided consent to make the amendment outside of an IEP meeting, and there is no PWN reflecting that the IEP was amended outside of an IEP meeting.

8. The November 1, 2024, reporting of the student’s progress toward the achievement of the IEP goals reflects the following:
- Math Calculation:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The information included in the progress report does not provide data reflecting the number of trials and refers to math assessment data as “writing samples.”
 - Speech-Language Receptive Language:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy”
 - The information included in the progress report does not provide data reflecting the goal or criterion for mastery.
 - Speech-Language Pragmatics:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy”
 - The information included in the progress report does not provide data reflecting the criterion for mastery.

- Reading Fluency:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The information included in the progress report does not provide data that reflects the goal or the number of trials.
- Math Problem Solving:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The information included in the progress report does not provide data reflecting the goal or the number of trials. The data also refers to math assessment data as “writing samples.”
- Written Language Expression:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The information included in the progress report does not provide data reflecting the goal or the number of trials.
- Social Interaction Skills:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Speech-Language Articulation:
 - “Progress Code: Achieved
 - Actual Results Achieved: % Accuracy”
 - The data included in the progress report does not reflect the goal or the number of trials (three sessions).
- Speech-Language Expressive Language:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy”
 - The data included in the progress report does not reflect the goal, the criterion for mastery, or the number of trials (three sessions).
- Reading Comprehension:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 82 % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.
- Self-management (1):
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.

- Self-management (2):
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
 - Written Language Mechanics:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
 - Written Language Content:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 88 % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.
 - Social Emotional/Behavioral:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
9. On December 10, 2024, the IEP team convened to review and revise the IEP. The prior written notice (PWN) generated after the meeting reflects the IEP team reviewed “[the] daily point sheet data, teacher reports, teacher input, parent input, advocate input, MAP scores, [and] classroom-based assessments” in making its determinations. The PWN reflects that the educational advocate requested that trend data match the assessments that were referenced to track progress, that the behaviors that impact the student’s learning be removed from the present levels, that reading fluency data be included in the “MAP R” present level for reading fluency, and that “[extraneous] dates required be removed from the trend data. The school-based team agreed to the requested changes to the IEP, and the PWN reflects that the “team could not finish the review of present levels...supplementary aids, accommodations, or services. The team will reconvene at a later date and time.”
10. The January 29, 2025, reporting of the student’s progress toward the achievement of the IEP goals reflects the following:
- Math Calculation:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials
 - Speech-Language Receptive Language:
 - “Progress Code: Making sufficient progress to meet goal
 - Speech-Language Pragmatics:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.

- Reading Fluency:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Math Problem Solving:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Written Language Expression:
 - Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: out of trials”
 - The data included in the progress report does not reflect the number of trials.
- Social Interaction Skills:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Speech-Language Articulation:
 - Progress Code: Achieved
 - Actual Results Achieved: % Accuracy”
 - This is the second progress reported for this goal as “achieved.”
 - The data included in the progress report does not reflect the criterion for mastery.
- Speech-Language Expressive Language:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.
- Reading Comprehension:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 85 % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.
- Self-management (1):
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.

- Self-management (2):
 - Progress Code: Making sufficient progress to meet goal
 - Written Language Mechanics:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
 - Written Language Content:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 90 % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.
 - Social Emotional/Behavioral:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 3 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
11. On February 3, 2025, the complainant emailed MCPS staff sharing concerns around the student’s two BIPs. The concerns included the fact that the student’s BIP had been “unilaterally changed” without her consent or involvement, and that “no data or assessments were conducted at [REDACTED] to justify modifying the original BIP.” The complainant also shared that the dates on the FBA were incorrect.
 12. On February 3, 2025, MCPS staff emailed the complainant sharing that the student’s BIP had been updated and was in draft form to be discussed at the upcoming IEP meeting.
 13. On February 3, 2025, the complainant’s educational advocate (advocate) emailed the MCPS staff member asking if the BIP draft had been completed at the student’s previous school and if [REDACTED] staff made any changes to the document. There is no documentation of a response from MCPS.
 14. On February 4, 2025, the advocate emailed MCPS staff sharing that the complainant verbally requested a copy of the student’s current IEP since October 2024 and again at the December 10, 2024, IEP meeting. The PWN from the December 10, 2024, IEP does not reflect this request. The email reflects the complainant was told that the student’s most recent IEP was dated August 16, 2024, but no PWN was provided to support that an IEP meeting was held on that date. The email requests the provision of the May 21, 2024, IEP, all documentation from the August 16, 2024, IEP meeting including the PWN, and all PWNs from IEP meetings from January 2024 through February 2025.
 15. On February 6, 2025, the IEP team reconvened to continue the review and revision of the student’s IEP. The PWN generated after the meeting reflects the IEP team reviewed “[PWNs] from March 2024- December 2024, copies of the IEP documents from March 2024- December 2024, parent Input, and advocate input” in making its decisions. The PWN reflects that the IEP team discussed the amendments made to the student’s IEP on August 16, 2024. The school-based team reported that “due to a clerical error in the IEP from the previous school team” the student’s LRE was updated to reflect “Bridge services,” and this change “was discussed during [the student’s] Intake meeting on August 13, 2024, to reflect the placement decision that was made during the May 2024 IEP...meeting. No prior written

notice was developed...” The complainant reported that there were other changes made to the IEP, and the educational advocate shared that the IEP would need to be reviewed and reconvene another meeting “for the changes that she feels were made.” The PWN reflects that time restraints prevented the team from reviewing the “drafted and provided documents for the IEP meeting.” The PWN reflects that this meeting was determined to be an “amendment meeting” and the IEP team “drafted an update to the [BIP] for strategies [because] the student transitioned into the Bridge program for the first semester.” The PWN reflects that the complainant and advocate were told that “the drafted BIP with the proposed changes has not been implemented as it was intended to be reviewed with the team [to make changes].” The student’s private behavioral specialist shared that the team should consider conducting a new FBA in the next IEP meeting. The PWN reflects the IEP team did not review the draft IEP, work samples, the current BIP, or review and discuss the drafted updates to the BIP due to time constraints “because the time allotted was spent addressing [the complainant and the advocate’s] confusion and concerns regarding dates and times.”

16. On February 13, 2025, the advocate emailed MCPS staff sharing that the PWN from the February 6, 2025, IEP meeting did not “accurately reflect the conversation that took place at the meeting.” The advocate shared that she nor the complainant was confused, and they had received “numerous IEP documents with different dates.” The advocate requested that the PWN be updated to reflect her input. The advocate also shared her position regarding the team’s failure to send a PWN reflecting the amendments made to the student student’s IEP.
17. On March 6, 2025, the complainant emailed MCPS staff sharing that she had not received a copy of the student’s daily point sheet, and the student’s behavior goals “keep changing.” The complainant stated that the student was not receiving the behavior support of reviewing the goals before every class as required by the IEP, and the lack of consistency has caused the student anxiety and stress. The email reflects that the point sheets are often incomplete and filled out by people who do not work with the student in class. Moreover, the student is being penalized for not attending class when he is receiving speech services, or he is marked as attending class when he is receiving speech services; and speech services are not being provided as scheduled at the beginning of the school year. The complainant expressed her frustration with the inconsistencies with filling out the student’s agenda and the failure of the school team to utilize it correctly.
18. On March 18, 2025, the advocate emailed MCPS staff again requesting that the PWN from the February 6, 2025, IEP meeting be updated because it was inaccurate. The email reflects that the parent team was sent “numerous IEP drafts and documents...with different and conflicting information... [some IEPs were marked as ‘approved’ with dates corresponding to meeting s that never actually occurred [and] numerous closed IEP documents and draft versions...with different dates.” The advocate stated that some of the changes made to the documents were substantial and reiterated that they occurred without a PWN. The email reflects that the advocate had not received a response to requests made on February 2, 2025, asking to receive a copy of the student’s Math 180 and Read 180 logs, the speech-language logs, social worker logs, all PWNs since March 2024, progress reports since the student was in the fifth grade, and “all IEP drafts, amendments, and approved versions from May 21, 2024, to present.”
19. On March 19, 2025, MCPS staff emailed the advocate stating that the [REDACTED] staff shared that physical copies of the requested documents were provided to the complainant, and the requested documents were attached. The email reflects that “the MCPS does not agree to amend the PWN from the recent IEP team meeting as the record is neither inaccurate or misleading.” The email shared that the complainant could appeal this decision pursuant to “MCPS regulations JOA-RA and KLA-RA.” The staff member requested to be informed if the complainant desired additional access to the student’s records.

20. On March 19, 2025, the advocate emailed the MCPS staff member sharing the frustrations surrounding the provision of conflicting information by the school team, unauthorized changes to the student's IEP, "failure to provide required records in a timely and complete manner," and issues with the development of two incomplete BIPs from one FBA, provision of the math intervention to the student, among other concerns. The advocate also requested to receive a copy of the recording from the February 6, 2025, IEP team meeting.
21. On the morning of March 20, 2025, the complainant emailed MCPS staff requesting the draft that will be reviewed during the IEP meeting and the student's progress reports for the last three years. MCPS staff responded to the complainant sharing that the documents would be sent to her electronically again, and the hard copies would not be available on that day due to the request's timing.
22. On March 20, 2025, the IEP team reconvened to continue the December 10, 2024, and February 6, 2025, IEP meetings. The PWN generated after the meeting reflects the IEP team reviewed "parental input, advocate input, outside therapist input, [and] Behavioral Analyst (outside provider) input" in making its decisions. The PWN reflects that "based on the input provided from outside providers, the team determined that a [new] functional behavioral assessment and behavioral intervention plan are needed due to the team feeling that the current behavioral intervention plan is not addressing [the student's] current needs and behaviors that are being observed." The PWN reflects the IEP team will reconvene to review the functional behavioral assessment and new behavioral intervention plan following the collaboration from outside providers, parent, school team at the next IEP meeting."
23. On March 20, 2025, a "Notice and Consent for Assessment" was generated for the student for an FBA/BIP. The complainant signed the consent form on March 21, 2025.
24. The March 28, 2025, reporting of the student's progress toward the achievement of the IEP goals reflects the following:
 - Math Calculation:
 - "Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials"
 - The data included in the progress report does not reflect the number of trials.
 - Speech-Language Receptive Language:
 - "Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy"
 - The data included in the progress report does not reflect the number of trials.
 - Speech-Language Pragmatics:
 - "Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: % Accuracy"
 - The data included in the progress report does not reflect the criterion for mastery.
 - Reading Fluency:
 - "Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: out of trials"
 - The data included in the progress report does not reflect the goal or the number of trials."

- Math Problem Solving:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Written Language Expression:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Social Interaction Skills:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Speech-Language Articulation:
 - “Progress Code: Achieved
 - Actual Results Achieved: % Accuracy”
 - This is the third progress reported for this goal as “achieved.”
 - The data included in the progress report does not reflect the criterion for mastery.
- Speech-Language Expressive Language:
 - “Progress Code: Making sufficient progress to meet goal
- Reading Comprehension:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 80 % Accuracy”
 - The data included in the progress report does not reflect the criterion for mastery.
- Self-management (1):
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Self-management (2):
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Written Language Mechanics:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
- Written Language Content:
 - “Progress Code: Achieved”

- Social Emotional/Behavioral:
 - “Progress Code: Making sufficient progress to meet goal
 - Actual Results Achieved: 4 out of 5 trials”
 - The data included in the progress report does not reflect the number of trials.
25. On April 24, 2025, the complainant emailed MCPS staff requesting to receive a copy of “all of [the student’s] draft, amended, and approved IEPs and PWNs from March 2024 through March 2025” to be sent via email in addition to “paper copies that aren’t double sided” sent home with the student. The email reflects the complainant had only received two that were sent home with the student that were not “double sided.” In addition, the complainant sent another email requesting all the student’s FBAs and BIPS to be emailed and sent home as paper copies.
26. On April 24, 2025, the complainant emailed MCPS staff sharing that the student’s written work from the previous day “was impossible to understand” due to his [REDACTED] and the student could not “decipher his own handwriting.” The email reflects that the student is “supposed to have access to a scribe, if needed, due to his [REDACTED]” and suggested that this would be a good idea for assignments like the one for his English class.
27. On April 24, 2025, MCPS staff emailed the complainant 11 documents titled “Speech log,” “Log for counseling,” “March 2025,” “February 2025,” “December 2024,” “March 2024,” “[The student’s data],” “[the student’s initials],” “Current BIP 4.24,” “Draft IEP (4),” and “Draft IEP (3).”
28. There is documentation that on April 25, 2025, the complainant received copies of “IEPs (including draft), FBA/BIP, student data” that were handed to her directly by MCPS staff.
29. On April 26, 2025, the advocate emailed MCPS staff thanking them for the documents and requested to know if the PWN had been revised as requested.
30. On April 30, 2025, the advocate emailed MCPS sharing that the complainant received incomplete and incorrect teacher reports where the information provided does not reflect the subject stated in the report.
31. There is documentation that behavior data was collected for the following dates:
- September 9, 2024, through September 27, 2024.
 - October 1, 2024, through October 30, 2024.
 - November 6, 2024, through November 21, 2024.
 - December 2, 2024, through December 20, 2024.
 - January 3, 2025, through January 31, 2025.
 - February 3, 2025, through February 28, 2025.
32. There is documentation that daily point sheet data was collected for the following dates:
- September 16, 2024, through September 30, 2024.
 - October 1, 2024; and October 24, 2024, through October 31, 2024.
 - November 6, 2024, through November 21, 2024.
 - December 17, 2024, through December 20, 2024.
 - January 2, 2025, January 3, 2025, January 9, 2025, January 10, 2025; and January 13, 2025, through January 31, 2025.
 - February 3, 2025, through February 14, 2025; February 19, 2025, through February 21, 2025; and February 24, 2025, through February 28, 2025.

- March 3, 2025, through March 14, 2025, and March 17, 2025, through March 20, 2025.

33. Behavior data documentation reflects that the student was absent on the following days:

- September 30, 2024;
- October 4, 7, 17, 25, 2024;
- November 12, 20, 22, 2024;
- December 6, and 12, 2024;
- January 14, and 16, 2025;
- February 4, 5, 7, 11, 25, 26, and 28, 2025;
- March 6, 11, 13, 18, and 19, 2025.

34. There is documentation that the student has not received the number of speech-language therapy sessions required by the IEP.

35. There is documentation that the student has received additional counseling services to those required by the IEP.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

PROPER PROCEDURES WHEN AMENDING AN IEP

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. Parental agreement to the changes must be obtained and documented before incorporating the changes into the student's IEP (34 CFR §300.324 (a)(4) and (6)).

Although the student's BIP addresses the student's behaviors of "invading personal boundaries/attention-seeking behaviors," the [REDACTED] BIP #2 reduced the number of positive attention-seeking strategies, social skills building strategies, replacement behavior teaching strategies, and response strategies required by the BIP. The [REDACTED] BIP also includes incorrect team members and provides no data collection strategies. Due to these changes being made outside of an IEP meeting, there is no documentation of data or parental input that was used in developing BIP #2.

In this case, there is no documentation that the complainant agreed to amend the student's BIP or IEP outside of an IEP meeting, and there is no PWN reflecting the changes made to either document.

Based on Findings of Fact #1 to #7, #11 to #13, #15, and #20, MSDE finds that the MCPS did not follow proper procedures when amending the IEP outside of an IEP meeting on August 16, 2024, and when amending the student's BIP when he enrolled in [REDACTED], in accordance with 34 CFR §§ 300.324 and .503. Therefore, MSDE finds a violation.

ALLEGATION #2

IEP THAT ADDRESSES THE STUDENT'S NEEDS

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. In the case of a

student whose behavior impedes the student's learning or that of others, the team must consider the use of positive behavioral interventions and supports and other strategies, to address that behavior (34 CFR § 300.324).

Occupational Therapy Needs

In this case, the student's May 21, 2024, IEP references the student's [REDACTED] diagnosis, provides supplementary aids, and supports to address needs in this area. The IEP team did not determine that the student required occupational therapy due to this diagnosis. Additionally, there is no documentation reflecting that the complainant expressed concerns about the student's need for occupational therapy during an IEP team meeting. The complainant's April 24, 2025, email requested that the MCPS ensure the student receives the support of a scribe due to this diagnosis.

Based on Findings of Fact #6, #7, #9, #15, #22, and #26, MSDE finds that the IEP team did not determine that the student required occupational therapy due to a [REDACTED] diagnosis thereby requiring the MCPS to develop an IEP that addresses the student's identified occupational therapy needs since August 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE finds no violation.

Behavioral Needs

Based on Findings of Fact #1 to #4, and #6, MSDE finds that the MCPS has developed an IEP that addresses the student's identified behavior needs since August 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

ALLEGATION #3

PROVISION OF SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES

Math Intervention

In this case, a math intervention is not required by the IEP.

Based on Findings of Fact #6, MSDE finds that the student's IEP did not require a math intervention therefore, MCPS was not required to ensure that the student was provided with a math intervention since August 2024. Therefore, MSDE does not find a violation.

Speech-Language Therapy

In this case, there is documentation that the student was not consistently provided speech-language services as required by the IEP.

Based on Findings of Fact #6 and #21, MSDE finds that the MCPS has not ensured that the student was provided with the speech-language services as required by the IEP since August 2024, in accordance with 34 CFR § 300.323. Therefore, MSDE finds a violation.

ALLEGATION #4

REPORTING OF PROGRESS

The LEA 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 (34 CFR §§ 300.101, .320, and .323).

In this case, the student's progress toward the math calculation, math problem solving, reading comprehension, reading fluency, speech-language articulation, speech-language expressive language, speech-language pragmatics, speech-language receptive language, written language content, written language expression, written language mechanics, self-management, social emotional/behavioral, and social interaction skills goals was not measured as required by the IEP.

Based on Findings of Fact #8, #10, and #24, MSDE finds that the MCPS has not ensured that the student's progress towards achieving the IEP goals were measured in the manner required by the IEP since August 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Measurable Annual Goals

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, the math calculation, speech-language receptive language, speech-language pragmatics, reading fluency, math problem solving, written language expression, social interaction skills, reading comprehension, self-management (1) and (2), written language mechanics, written language content, and social emotional/behavioral goals required by the students were not measurable as written.

Based on Finding of Fact #6, MSDE finds that the MCPS has not ensured that the IEP contains measurable annual goals in the areas of math calculation, speech-language receptive language, speech-language pragmatics, reading fluency, math problem solving, written language expression, social interaction skills, reading comprehension, self-management (1) and (2), written language mechanics, written language content, and social emotional/behavioral, since August 16, 2024, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

ALLEGATION #5

ACCESS TO STUDENT RECORDS

The Family Educational Rights and Privacy Act (FERPA) requires public agencies to permit parents to inspect and review any educational records relating to their children that are collected, maintained, or used by the agency. The public agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any due process hearing or resolution meeting, and in no case more than forty-five days after the request has been made (34 CFR § 99.10). The IDEA parallels this requirement at 34 CFR §300.613.

While the period of time that is reasonable to respond to a parent's request for access to the educational record may vary depending on factors such as the nature of the records requested, their location, and volume, the forty-five-day limitation is absolute. The Family Policy Compliance Office (FPCO), the federal agency responsible for compliance with FERPA, has held that there is no condition or limitation to the right of a parent to access the record, even in instances where the public agency rightly believes that parent requests for access to the record are repetitive or duplicative of past inquiries. The FPCO has held that a public agency did not have the authority to deny a parent's request for access, no matter how frequently she asked to review the record [emphasis added] (*Huntsville (AL) School District*, 24 IDELR 82 (FPCO 1996)).

In this case, there is documentation that the parent and advocate requested copies of student records on February 4, 2025, March 19, 2025, and April 24, 2025. There is documentation that the complainant received documentation on April 24, 2025, and April 25, 2025. There is no documentation that reflects the complainant received the recording of the February 6, 2025, IEP meeting as requested on March 19, 2025, within the statutory 45-day time period.

Based on Findings of Fact #14, #17, #20, #21, #25, #27, #28, #29, and #30, MSDE finds that the MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since March 19, 2025, in accordance with 34 CFR § 300.613. Therefore, MSDE finds a violation.

ALLEGATION #6

REQUEST TO AMEND STUDENT RECORDS

A parent who believes that information in the student's education record is inaccurate or misleading or violates the privacy or other rights of the student may request that the public agency amend the information. Upon receipt of such a request, the public agency must decide, within a reasonable period of time of the receipt of the request, whether to amend the information. If the public agency refuses to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing to challenge the information (34 CFR §§ 300.618 and .619).

If the public agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must amend the information and inform the parent in writing. If the public agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it must inform the parent of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the public agency in the education record (34 CFR § 300.620).

In this case, on February 13, 2025, March 18, 2025, and April 26, 2025, the advocate requested that the February 6, 2025, PWN be amended. On March 19, 2025, the MCPS responded to this request, denying that the information included in the PWN was "inaccurate or misleading." The MCPS shared the MCPS regulations that the advocate and complainant could utilize in appealing the decision not to amend the PWN, but did not state that the parent had the right to "place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the public agency in the education record" in its emailed response.

Based on Findings of Fact #16, #18, #19, #20, and #29, MSDE finds that the MCPS has not followed proper procedures when responding to a request to amend the student's education record since February 6, 2025, in accordance with 34 CFR §§ 300.618 - .621. Therefore, MSDE finds a violation.

CORRECTIVE ACTIONS AND TIMELINES:

The IDEA requires that State complaint procedures include effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR § 300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below. Accordingly, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below. The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

By July 19, 2025, MSDE requires the MCPS to provide documentation that the school system has:

- Convened an IEP team meeting to discuss the BIP, develop measurable annual goals, and determine whether the violations herein had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact; it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings;
- Provided the student with the required number of speech-language services;
- Provide the report of progress measured as required by the IEP;
- Provided the complainant with the requested recording of the February 6, 2025, IEP meeting; and
- Provided the complainant with the required information regarding all rights to amend the student's educational record.

The MCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

MSDE requires the MCPS to provide documentation by July 19, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for amending IEPs, developing BIPs, providing related services, drafting measurable annual goals, reporting progress, providing access to student records, and parental rights with regard to amending the student educational record under the IDEA. These steps must include staff development.

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.

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. The 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/ebh

c: Dr. Thomas W. Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
Maritza Macias, Paralegal, MCPS
Eve Janney, Compliance Specialist, MCPS
[REDACTED], Principal, [REDACTED] School, MCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Director, Accountability and Data, MSDE
Alison Barmat, Director, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE