

May 23, 2025

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-318

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 27, 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 has not developed an Individualized Education Program (IEP) that addresses the student’s identified reading needs since April 2024, in accordance with 34 CFR § 300.324.
2. The MCPS has not ensured that the student was provided with the reading intervention and one on one assistant as required by the IEP since April 2024, in accordance with 34 CFR §§ 300.101 and .323.
3. The MCPS has not ensured that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since April 2024, in accordance with 34 CFR §§ 300.320 and .323.
4. The MCPS did not provide the parents with prior written notice (PWN) of the team’s decision to reject the request for evaluations, which was made on September 17, 2024, in accordance with 34 CFR § 300.503.

5. The MCPS did not ensure that proper procedures were followed before determining the student was no longer eligible for special education services under the IDEA, since February 2024, in accordance with 34 CFR §§ 300.303 - .306, and COMAR 13A.05.01.06.

BACKGROUND:

The student is nine years old and is identified as a student with an emotional disability under the IDEA. They attend [REDACTED] School.

FINDINGS OF FACT:

1. The student did not have an IEP in effect in April 2024¹.
2. The IEP developed on May 1, 2024, reflects reading phonics and reading comprehension as areas impacted by the student's disability.

The student's Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflect:

- Reading phonics: DIBELS (Dynamic Indicators of Basic Early Literacy Skills), observation, classroom assessments, MAP (Measures of Academic Progress) data are reflected.
 - Level of performance: below grade level- 1st grade
- Reading comprehension: DIBELS (Dynamic Indicators of Basic Early Literacy Skills), observation, classroom assessments, MAP (Measures of Academic Progress) data are reflected.
 - Level of performance: below grade level- 1st grade

The IEP requires supplementary aids, services, and accommodations to address the student's reading and support needs:

- Text to speech for English language arts (ELA), math, science, and government assessments
- Extended time (1.5x)
- Daily: adult support
 - [The student] requires adult support throughout his day at school to monitor possible elopement, during lunch/recess, and during specials. In addition, consistent implementation of behavior contract, consistent implementation of the Behavior Intervention Plan (BIP), frequent reinforcement for positive social behaviors, frequent social coaching during peer interactions, individualized movement breaks as needed, and monitoring for safe behaviors

The IEP requires goals to be reported quarterly:

- Reading phonics: "By April 2025, [the student] will identify the uppercase and lowercase letters of the alphabet, recall the sounds the letters make, and decode one syllable words with 80% accuracy when he is given wait time, reinforcers, and scaffolded instruction."
 - Method of measurement: letter/sound survey
 - Criteria for mastery and retention: 80% accuracy
 - The goal does not include criteria for retention
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"

¹ The May 1, 2024, PWN reflects that the student previously had an IEP, however, the parent revoked special education services.

- November 1, 2024, progress: "Making sufficient progress to meet goal: [The student] is making progress. He receives reading intervention for 30 minutes, 4 times per week using the Really Great Reading program. He also participates in Boost through Amplify on a daily basis."
 - Progress is not reported as required by the IEP
- Reading comprehension: "By April 2025, given small group instruction, teacher scaffolding, wait time, and prompting, when given grade level literary text, [the student] will ask and answer questions to demonstrate understanding of the text, referring explicitly to the text as the basis for the answers for an accuracy of at least 75% accuracy over 3 consecutive trials."
 - Method of measurement: curriculum-based or teacher tests and quizzes
 - Criteria for mastery and retention: 75% accuracy over three consecutive trials
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"
 - November 1, 2024, progress: "Making sufficient progress to meet goal: [The student] is making progress in this area. He is engaged in classroom discussions regarding the reading and is always willing to attempt answering comprehension questions."
 - Progress is not reported as required by the IEP
- Behavioral regulation: "With support and modeling from teachers, counselors, or other school staff, [the student] will identify and manage his personal feelings (i.e., anger, anxiety, stress, frustration) in 4 out of 5 trials on a daily basis with frequency being measured by anecdotal data by April 2025."
 - Method of measurement: observational record
 - Criteria for mastery and retention: four out of five trials
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"
 - November 1, 2024, progress: "Making sufficient progress to meet goal: [The student] is usually regulated and able to identify his emotions. On days when he is having moments of difficulty, he has a harder time explaining his feelings. We are giving regular reminders of different coping strategies that are available to him."
 - Progress is not reported as required by the IEP
- Written language expression: "By April 2024 [2025], [the student] will use pictures, drawings, and/or sentences at least 4 out of 5 times to demonstrate his thoughts & ideas on curriculum-based writing assignments with adult/teacher prompting, graphic organizers, visual aids, sentence frames, and a word bank."
 - Method of measurement: writing samples
 - Criteria for mastery and retention: four out of five trials
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"
 - November 1, 2024, progress: "Making sufficient progress to meet goal: [The student] is making progress in this area. He is given the opportunity to write and draw out his thoughts on a daily basis. He needs help with spelling in order to complete writing assignments at this time."
 - Progress is not reported as required by the IEP
- Speech-language articulation: "By April 2025, [the student] will increase intelligibility by producing /l/, /r/, and consonant blends in all positions of single words and /j/ "y" and final consonants at the phrase/short sentence level with 80% accuracy across 3 sessions."
 - Method of measurement: SLP [Speech-language Pathologist] data collection
 - Criteria for mastery and retention: 80% accuracy across three sessions
 - June 13, 2024, progress: "Not yet introduced"

- November 1, 2024, progress: "Newly introduced skill, progress not measurable at this time: [The student] has just been introduced to working on blends but is resistant to suggestions to improve his production of these sounds so there is no measurable progress at this time."
 - Progress is not reported as required by the IEP
 - January 28, 2025, progress: "Making sufficient progress to meet goal: [The student] is making progress on blends and /l/ at the word level given models and prompts."
 - Progress is not reported as required by the IEP
- Social emotional/behavioral (goal one): "Given reinforcements, positive praising, and adult support, [the student] will remain in his assigned location during the school day 100% of the time by April 2025."
 - Method of measurement: Observation record
 - Criteria for mastery and retention: 100% accuracy.
 - This goal does not include criteria for retention.
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"
 - November 1, 2024, progress: "Making sufficient progress to meet goal: [The student] works hard to follow classroom and school rules. We have not had an issue with him being out of area since he arrived at [REDACTED] ES [elementary school]."
 - Progress is not reported as required by the IEP
- Social emotional/behavioral (goal two): "[The student] will follow classroom rules and routines given visuals, review and repetition, a checklist, and reinforcers 4 out of 5 times by December 2022."
 - Method of measurement: Observation record
 - Criteria for mastery and retention: four out of five trials
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"
 - November 1, 2024, progress: "Making sufficient progress to meet goal: [The student] follows classroom instructions and routines without issue. If he is confused about expectations, he advocates for himself by asking clarifying questions."
 - Progress is not reported as required by the IEP
- Math calculation: "By April 2025, when given repetition and practice, prompting, and reinforcers, [the student] will be able to count up to 3-digit numbers and be able to perform basic addition & subtraction (with 1-digit or 2-digits) within 100."
 - Method of measurement: teacher made assessments
 - Criteria for mastery and retention: four out of five trials
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time"
 - November 1, 2024, progress: "Making sufficient progress to meet goal: Math is a strength for [the student]. He enjoys the work and often asks for more. He takes corrections well and does not get discouraged when something is difficult or new. He is receiving whole group and small group instruction in this area on a daily basis."
 - Progress is not reported as required by the IEP.
 - This goal does not include criteria for mastery.
- Speech-language expressive: "By April 2025, [the student] will use articles, pronouns, auxiliary verbs, and past tense in sentences during structured language activities given visual support and a verbal or gestural cue with 80% accuracy across 3 sessions."
 - Method of measurement: SLP data collection
 - Criteria for mastery and retention: 80% accuracy across three sessions

- June 13, 2024, progress: "Not yet introduced"
 - November 1, 2024, progress: "Newly introduced skill; progress not measurable at this time: [The student] has been at [REDACTED] since October. When he is willing to participate and is showing an understanding of pronouns but does not always use the correct subject case pronoun when he speaks preferring to say, "Me can do it." but is able to correct this and say, "I can do it.""
 - Progress is not reported as required by the IEP
 - January 28, 2025, progress: "Making sufficient progress to meet goal: [The student] is making progress with using articles in sentences and pronouns, but still often using "me" instead of "I". He had numerous absences on Mondays and Fridays in December which have limited his progress."
 - Progress is not reported as required by the IEP
- Speech-language receptive: "By April 2025, [the student] will follow 1-step directions containing spatial/curricular concepts and match curricular vocabulary to its definition with 80% accuracy across 3 sessions."
 - Method of measurement: SLP data collection
 - Criteria for mastery and retention: 80% accuracy across three sessions
 - June 13, 2024, progress: "Newly introduced skill, progress not measurable at this time."
 - November 1, 2024, progress: Making sufficient progress to meet goal: "[The student] has only been at [REDACTED] since October and when he chooses to follow directions during activities he is making progress but often he just wants to do what he wants or will walk away if he is not correct."
 - Progress is not reported as required by the IEP
 - January 28, 2025, progress: [The student] is able to follow one step directions with spatial concepts."
 - Progress is not reported as required by the IEP

The IEP does not reflect the requirement of a reading intervention or one on one adult support, however, additional adult support is required.

3. On March 3, 2025, the IEP team convened to discuss the complainant's revocation of consent for special education and related services. The PWN generated after the meeting reflects that the "complainant requested to discontinue special education and related services per her request sent electronically by email and confirmed over the phone on February 28, 2025, by the [MCPS], Resolution and Compliance Unit." It is further reflected that
"The IEP team continues to feel your child requires special education services and supports in order to access the curriculum. The continued need for special education services and support is evidenced by teacher reports, curriculum-based assessments, state assessment information, as well as other performance indicators... Your child will no longer be provided with the special education services and/or related services as indicated on their IEP and will not be entitled to receive the protections required by the Individuals with Disabilities Education Act (IDEA). Specifically, MCPS is not required to provide your child with a free appropriate public education, including special education services, testing accommodations, supplementary aids, and services, or related services. Additionally, your child will not receive the disciplinary protections afforded students through the IDEA. If a parent/guardian is interested in pursuing eligibility under Section 504, please contact your child's professional school counselor."

4. There is no documentation that the student was provided with daily adult support from the start of the 2024-2025 school year to February 28, 2025, as required by the IEP.
5. There is no documentation that the parent was provided with the quarterly progress reports from the start of the 2024-2025 school year to February 28, 2025, as required by the IEP.
6. There is no documentation that a request for a reevaluation was made on September 17, 2024.

DISCUSSIONS AND CONCLUSIONS

ALLEGATION #1

DEVELOPMENT OF THE IEP

The Present Levels of Academic and Functional Performance (PLAAFP) statement should include the following components: a description of the student's current academic achievement, strengths and weaknesses, functional performance details including a narrative and data when applicable, information about how their disability impacts their involvement and progress in the general education curriculum (34 CFR § 300.320), baseline data to measure progress, and input from caregivers and service providers (MARYLAND STATEWIDE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS GUIDE, Early Intervention and Special Education Services, March 2024).

Based on Findings of Fact #1 and #2, MSDE finds that the MCPS did develop an IEP that addresses the student's identified reading needs from May 1, 2024, to February 28, 2025, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

ALLEGATION #2

PROVISION OF THE READING INTERVENTION AND ADULT SUPPORT

In this case, the student's May 1, 2024, IEP does not require the provision of a reading intervention or a one-on-one instructional assistant. However, the IEP requires the provision of daily adult support.

Based on Findings of Fact #1, and #2, MSDE finds that the MCPS was not required to provide the student with a reading intervention and one on one assistant from May 1, 2024, to February 28, 2025, because the student's IEP did not require them, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE does not find a violation.

Based on the Findings of Fact #1, #2, and #4, MSDE finds that the MCPS has not ensured there is documentation that the student was provided with the additional adult support from May 1, 2024, to February 28, 2025, as required by the IEP, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds a violation.

ALLEGATION #3

REPORTING OF PROGRESS

In this case, the November 1, 2024, quarterly progress reported for the IEP goals was not reported as required by the IEP. The January 28, 2025, quarterly progress reported for the speech-language articulation, expressive, and receptive language was not reported as required by the IEP. Furthermore, there is no documentation that the parent was provided the quarterly progress reports from the start of the 2024-2025 school year to February 28, 2025, as required by the IEP.

Based on Findings of Fact #1, #2, and #5, MSDE finds that the MCPS has not ensured that the parent was provided with accurately measured quarterly progress reports toward achieving the annual IEP goals since April 2024, in accordance with 34 CFR §§ 300.320 and .323. Therefore, MSDE finds a violation.

ALLEGATION #4	PROVISION OF THE PWN
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In this case, there is no documentation to support the allegation that a request for a reevaluation was made on September 17, 2024, therefore, the MCPS was not required to provide a PWN regarding a request for a reevaluation.

Based on the Finding of Fact # 6, MSDE finds that the MCPS was not required to provide the parents with prior written notice (PWN) of the team's decision to reject the request for evaluations, because there is no documentation a request was made on September 17, 2024, in accordance with 34 CFR § 300.503. Therefore, MSDE does not find a violation.

ALLEGATION #5 **PROPER PROCEDURES WHEN DETERMINING ELIGIBILITY**

In this case, the MCPS did not determine that the student was no longer eligible for special education services under the IDEA since the start of the 2024-2025 school year. On February 28, 2025, the parent revoked special education services and the parent was provided with the required prior written notice before dismissing the student.

Based on Finding of Fact #3, MSDE finds that the MCPS has not determined that the student was no longer eligible for special education services under the IDEA, since February 2024, in accordance with 34 CFR §§ 300.303 - .306, and COMAR 13A.05.01.06. Therefore, MSDE does not find 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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.² 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.

² 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, the 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 action.³ 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 31, 2025, that the IEP team has convened and determined whether the violation related to the provision of daily adult support 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.

MSDE also required the MCPS to review the student's data and goals and correct the student's progress reports to align with the requirements of the goals. After the correction is completed, the MCPS must provide documentation that the corrected reports have been sent to the student's parents.

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 31, 2025, of the steps it has taken to ensure that the [REDACTED] School staff properly implements and documents the requirements for the provision of adult support and accurately measured quarterly progress under the IDEA. These steps must include staff development and tools developed to monitor compliance and document service provision.

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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

The parties maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of a free appropriate public education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Special Education

ALH/sd

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