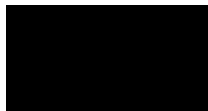





July 3, 2023




Dr. Terri Savage  
Executive Director of Special Education  
Howard County Public Schools  
10910 Clarksville Pike  
Ellicott, Maryland 21042

RE:   
Reference: #23-215

Dear Parties:

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

**ALLEGATIONS:**

On May 5, 2023, MSDE received a complaint from Ms. , hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegations:

1. HCPS has not developed an Individualized Education Program (IEP) that identifies and addresses the student’s academic and behavioral needs since May 2022, in accordance with 34 CFR §§300.101 and .324.
2. HCPS has not ensured that the student’s IEP includes annual goals designed to enable the student to progress through the general education curriculum, and which are based on the student’s present levels of performance, since May 2022, in accordance with 34 CFR §§300.320, and .324.
3. HCPS did not ensure that the complainant was provided with accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meeting on May 10, 2022, and October 13, 2022<sup>1</sup>, at least five business days before the scheduled meetings, in accordance with COMAR 13A.05.01.07.

<sup>1</sup> The complainant initially indicated that an IEP team meeting was convened for the student on October 13, 2023. The IEP team meeting in question was convened on October 18, 2023.

4. HCPS did not provide the complainant with a copy of the IEP document within five (5) business days after the IEP team meetings of May 10, 2022, and October 18, 2022, in accordance with COMAR 13A.05.01.07.
5. HCPS did not follow proper procedures in responding to requests for amendment of the record made since May 2022, in accordance with 34 CFR §§300.618.
6. HCPS did not follow proper procedures when disciplinarily removing the student from school since May 2022, in accordance with 34 CFR §300.530.
7. HCPS did not ensure that the student's teachers had access to the student's IEP at the start of school year 2022- 2023, which has resulted in the support and services not being provided, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is 18 years old and was dually enrolled at [REDACTED] and [REDACTED] School. She is identified as a student with an Emotional Disability under the IDEA and had an Individualized Education Program (IEP) that required the provision of special education instruction and related services.

**ALLEGATION #1 & #2**

**DEVELOPED AN IEP THAT IDENTIFIES AND ADDRESSES ACADEMIC AND BEHAVIORAL NEEDS SINCE MAY 2022, & DEVELOPMENT OF IEP GOALS BASED ON PRESENT LEVELS OF PERFORMANCE**

**FINDINGS OF FACTS:**

1. On May 10, 2022, the IEP team met at the complainant's request to address her concerns related to the student's behavior. The IEP in effect following that meeting reflects that the student's disability impacts her in the following areas: study/organization skills, math calculation, math problem solving, reading comprehension, written language content, social emotional/behavioral, and social interaction skills. The IEP reflects a discussion of present levels in reading comprehension, math calculation, written language content, study/organizational skills, and social emotional behavior. The discussions include data of the student's strengths, areas of need (academic and behavior), and the results of assessments completed in 2021.
2. The student's May 10, 2022, IEP requires that she be provided with instructional and assessment accessibility features/accommodations including: highlighting tool, graphic organizer, small group, frequent breaks, reduce distractions to self, reduce distractions to others, 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), and extended time. The student's IEP also includes supplementary aids including: rubrics, highlighter for key terms (math problem solving and reading comprehension), allow use of manipulatives, supporting student with establishing interim deadlines when completing long term/multi step projects, extended time for missing assignments for full credit, calculator, providing student with copy of student/teacher notes, repetition of directions, provide assistance with organization, monitor independent work, adult support, flash pass, provide a consistent check in check out system to monitor and address anxiety levels and social/emotional concerns, and preferential seating. The IEP also required crisis intervention (as needed) and school to school communication (periodically).

3. On May 10, 2022, the IEP reflected the following goals:

- Social interaction skills- Given staff support the student will display productive social behavior in school and community settings to establish and maintain positive relationships in 3 out of 4 trials.
- Math calculation- Given extended time, encouragement/positive reinforcers, adult support, and with a calculator, the student will learn how to reduce to lowest terms, find lowest common denominator (LCD) of two fractions, create equivalent fractions, and add and subtract like and unlike fractions with 80% accuracy in 3 trials, as measured by classroom-based assessment.
- Math problem solving - Given classroom-based numbers charts, written formulas and examples of how to complete the assignment, scrap paper, graphic organizers, and a highlighter, the student will determine operations within multi-step word problems, use a calculator to solve a problem to determine an average, use a calculator to solve a multi-step problem to determine cost of a trip and phone call charges per minute and determine the total cost of a 30 minute call with 70% accuracy using classroom based assessments.
- Social Emotional/Behavioral - When experiencing frustration, the student will appropriately verbalize her feelings and advocate for her needs (ask for help, ask for a break). With staff support, the student will use learned coping strategies (calming breaths, taking a break) and engage in problem solving to manage her day in 3 out of 5 trials.
- Study/Organizational Skills - Given prompts, encouragement/positive reinforcers, adult support, and extended time, the student will be able to: use organization tools (agenda book, organizing binders, notes and alarm clock) to enable her to arrive to and begin class on time, submit completed assignments on-time; follow staff directions to start and complete academic tasks in 8 of 10 trials, as measured by observation record and completed assignments.
- Reading Comprehension -Given the monitoring of independent work, work chunked into sections, checks for understanding, repetition of directions, reduced distractions, and graphic organizers, highlighters, the student will utilize during reading strategies, make connections between the text of a story or drama and a visual or oral presentation of the text in diverse media and formats (video or PowerPoint/slideshow), identifying where each version reflects specific descriptions and directions in the text.
- Written Language Content -Given a writing task, rubric, graphic organizers, reduced distractions, and repetition of directions, the student needs to be able to write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences, with 70% accuracy of all teacher required assessments.

4. During the May 10, 2022, IEP team meeting, the complainant proposed that a Behavior Intervention Plan (BIP) be developed for the student. The IEP team determined that the student did not have a BIP because the student did not require one for her programming at [REDACTED] School. The team proposed and agreed that a new Functional Behavior Assessment (FBA) was needed. The complainant provided consent to complete the FBA shortly after the meeting.

5. On October 13, 2022, the IEP team reviewed and revised the IEP. During the IEP team meeting, the complainant expressed concerns regarding possible triggers at school. To support the student's social emotional needs, the IEP team determined that the student would receive one hour of therapeutic services per week. During this time, the student continued to be dual enrolled in her assigned nonpublic school for academic instruction and her neighborhood school for resource classes and

extracurriculars. The IEP team reviewed progress in academic domains: math, reading, written expression, organization/study skills, social/ emotional, and transition. The team relied on classroom performance, the IEP, Information provided by complainant/guardian, and teacher/staff feedback and reports to inform IEP team decisions.

6. On October 13, 2022, the IEP reflects the following goals:

- Math Calculation - Given rubrics, highlighters for key terms, calculator, repetition of directions, extended time, graphic organizers, and frequent breaks, parallel teaching, highlighting of information, the student will write and interpret numerical expressions; multiply and divide two numbers that contain decimals up to the hundredths, and multiply and divide fractions with like and unlike denominators, with 75% accuracy in 4 trials.
- Math Calculation - Given a calculator, rubrics, highlighters for key terms, repetition of directions, extended time, scaffolding, color coordination of information directions, and parallel teaching, the student will identify a function on a graph, evaluate functions through substitution, and use the four operations to evaluate functions by combining with 75% accuracy.
- Math Problem Solving - With rubrics, highlighters for key terms, calculator, repetition of directions, extended time, graphic organizers, and frequent breaks, parallel teaching, highlighting of information, parallel teaching, color coordination of information presented, highlighting, scaffolding, the student will be able to solve real world and word problems that involve using the addition and subtraction of fractions, the multiplication and division of fractions, and the calculation of simple interest with 75% accuracy in 3 trials.
- Social Emotional/Behavioral - With therapeutic support, the student will identify and manage her feelings of depression, anger, frustration, and irritability on a daily basis in all school environments by using coping strategies in 4 out of 5 trials.
- Reading Comprehension- Given rubrics, highlighters for key terms, repetition rubric, graphic organizer, reduced distractions, repetition of directions, extended time, and multiple breaks, the student will be able to determine the theme of a story or drama and cite evidence; identify the main idea of informational texts and cite evidence; compare and contrast how two texts address similar subjects with 80% accuracy in 4 trials.
- Written Language Content - Given the writing task, rubric, graphic organizer, reduced distractions, repetition of directions, extended time, and multiple breaks, the student will be able write a 3 paragraph response to prompts, to make an argument, to convey information, or to tell a story, conduct research projects that build knowledge through the investigation of different aspects of a topic, and to revise and edit papers to meet 80% of all teachers expectations in 3 trials.

7. The IEP developed for the student on October 13, 2022, reflects that the student's disability continues to impact her in the following areas: study/organization skills, math calculation, math problem solving, reading comprehension, written language content, social emotional/behavioral, and social interaction skills. The IEP requires that the student receive nineteen hours of specialized instruction outside the general education setting per week, and twelve hours and thirty minutes of specialized instruction in the general education setting per week to be delivered to the student at her neighborhood high school. The IEP further requires that the student receive a weekly one hour session of counseling services. The IEP team did/did not make changes to the supplementary aids, supports and accommodations that the student would receive.

8. There is no documentation, to date, that the IEP team has met to review the results of the FBA recommended for the student on May 10, 2022.

### **DISCUSSION/CONCLUSION**

#### **Allegation #1: DEVELOPMENT OF THE STUDENT'S IEP**

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 IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior (34 CFR §§300.101, .320, and .324).

Based on Findings of Facts #1 through #8, MSDE finds that the HCPS has developed an Individualized Education Program (IEP) that identifies and addresses the student's academic and behavioral needs since May 2022, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation occurred with respect to this allegation.

#### **Allegation #2: DEVELOPMENT OF APPROPRIATE GOALS**

Based on Finding of Facts #1 through #7, MSDE finds that the HCPS has ensured that the student's IEP includes annual goals designed to enable the student to progress through the general education curriculum, and which are based on the student's present levels of performance, since May 2022, in accordance with 34 CFR §§300.320, and .324. Therefore, this office finds that a violation did not occur with respect to this allegation.

#### **ALLEGATION #3 PROVISION OF DOCUMENTS PRIOR TO MEETINGS IN MAY 2022 AND OCTOBER 2023**

#### **FINDING OF FACTS:**

9. The Notice of Individualized Education Program (IEP) Team Meeting developed on May 9, 2022, reflects a proposed virtual meeting date of May 10, 2022. The purpose of the meeting was to conduct interim review to address parental concerns. The meeting notice includes the following statement: "Due to the purpose of the meeting, there are no written documents that the school-based IEP team plans to discuss. Provide any written documents that you wish the IEP team to consider to your child's case manager in advance of the meeting."
10. On July 25, 2022, the HCPS emailed the complainant the following documents in preparation for the annual review meeting on August 1, 2022. The course map transcript, draft IEP, 5-day letter, narrative progress summary, Maryland Transition Planning Guide, Maryland Procedural Safeguards, and Parent's Guide to Habilitative Services. This IEP team meeting did not occur but was rescheduled at the complainant's request for October 13, 2022.
11. The Notice of Individualized Education Program (IEP) Team Meeting developed on October 7, 2022, reflects a proposed virtual meeting date of October 13, 2022. The purpose of the meeting was to Conduct an Annual Review of the IEP and consider and develop the Emergency Learning Continuity Plan as part of IEP. The meeting notice includes the following statement: "Due to the purpose of the

meeting, there are no written documents that the school-based IEP team plans to discuss. Provide any written documents that you wish the IEP team to consider to your child's case manager in advance of the meeting."

**DISCUSSION/CONCLUSION:**

The IEP team meeting on May 10, 2022, was held to address the complainant's concerns. Based on Finding of Facts #9 through #11, MSDE finds that the HCPS ensured that the complainant was provided with accessible copies of each assessment, report, data chart, draft IEP, or other documents the IEP team planned to discuss at the IEP team meeting on October 13, 2022, at least five business days before the scheduled meetings, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation did not occur with respect to this allegation.

**ALLEGATION #4**

**PROVISION OF IEP DOCUMENT FIVE DAYS AFTER MEETINGS**

**FINDING OF FACTS:**

12. There is no documentation that the IEP team amended the student's IEP during the May 10, 2022, IEP team meeting.
13. There is no documentation that the IEP developed on October 12, 2022, was provided to the complainant five days after the meeting.
14. In their response to the allegation, the HCPS acknowledges that there was no documentation that a completed copy of the IEP was provided to the complainant after the May 10, 2022, and October 12, 2022, IEP team meetings. The HCPS further proposed the HCPS will develop a procedure and supporting documentation to implement when students are engaging in a partial transition between a private, separate, day school and a HCPS public school setting, including the provision of documents within required timelines. All HCPS nonpublic case managers will receive training on the procedure and documentation requirements.

**DISCUSSION/CONCLUSION:**

Consistent with COMAR 13A.05.01.07, appropriate school personnel shall provide the parent of a student with a disability an accessible copy of (b) The completed IEP not later than 5 business days after a scheduled IEP or other multidisciplinary team meeting.

Based on Finding of Fact #13, MSDE finds that the HCPS did not provide the complainant with a copy of the IEP document within five business days after the IEP team meetings October 13, 2022, in accordance with COMAR 13A.05.01.07.

**ALLEGATION #5**

**PROPER PROCEDURES IN RESPONDING TO REQUEST TO AMENDMENT OF THE RECORD**

**FINDING OF FACTS:**

15. On March 9, 2023, the complainant emailed the HCPS requesting: (1) a copy of the student's disciplinary record, and (2) that the student's disciplinary record be amended to remove all disciplinary actions and referrals from the student's [REDACTED] School record.

16. On March 14, 2023, the complainant submitted the "HCPS Formal Concern Form". The form reflects the action requested to expunge all disciplinary actions and referrals from the student's [REDACTED] School record for the 2021-2022 and 2022-2023 school years. The form was received and reviewed by the HCPS Community Superintendent on March 15, 2023.
17. On March 16, 2023, the HCPS sent correspondence in response to the complainant's request that informed her of the denial of her proposed amendment. However, the response did not inform her of her right to a hearing to amend the student's records.

**DISCUSSION/CONCLUSION:**

A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the complainant of the refusal and advise the complainant of the right to a hearing under 34 CFR § 300.619 (CFR §§300.618).

The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child (34 CFR §§300.619).

Based on the Based on Finding of Facts #15 through #17, MSDE finds that HCPS did not follow proper procedures in responding to requests for amendment of the record made since May 2022, in accordance with 34 CFR §§300. 618. Therefore, this office finds that a violation did occur with respect to this allegation.

**ALLEGATION #6**

**PROPER PROCEDURES WHEN DISCIPLINARILY REMOVING THE STUDENT**

**FINDING OF FACTS**

18. On May 4, 2022, the student was referred to "Saturday school" as a result of classroom or school disruption.
19. On March 2, 2023, the student was referred to "in school intervention" as a result of "cutting class." The complainant was contacted, and a conference was held with the student. The student was removed from the classroom for one day and received her special education supports during her in school intervention.
20. There is no documentation that the student was disciplinary removed by the HCPS since May 2022.

**DISCUSSION/CONCLUSION**

School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school

days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536) (34 CFR §300.530.).

Based on Finding of Facts #18 through #20, MSDE finds that the HCPS was not required to take steps, in accordance with 34 CFR §300.530, following the student's referral to "in school intervention" on March 2, 2023. Therefore, this office finds that a violation did not occur with respect to this violation.

**ALLEGATION #7                      TEACHER ACCESS TO IEP AT THE BEGINNING OF THE 2022-2023 SCHOOL YEAR**

**FINDING OF FACTS:**

21.     The student's enrollment history reflects that the student was enrolled at a non-public placement. The student's placement remained unchanged from the 2021-2022 school year.
22.     The student's IEP reflected the student participated in two electives at ██████████ School during the 2022-2023 school year.
23.     There is documentation from the neighborhood high school that the HCPS had ensured that some staff working with the student were provided with copies of the IEP. The documentation does not, however, indicate which staff received the IEP.
24.     There is documentation that staff at ██████████ School provided support to the student and participated in IEP team meeting discussions related to her social/emotional and behavioral needs.
25.     In their response to the allegation, the HCPS acknowledges that there was no documentation that the student's teachers had access to the IEP at the start of the 2022- 2023 school year. The proposed the HCPS will develop a procedure and supporting documentation to implement when students are engaging in a partial transition between a private, separate, day school and a HCPS public school setting, including the provision of documents within required timelines. All HCPS nonpublic case managers will receive training on the procedure and documentation requirements.

**DISCUSSION/CONCLUSION**

Based on Finding of Fact #23, MSDE finds that HCPS did not ensure that the student's teachers had access to the student's IEP at the start of school year 2022- 2023, which has resulted in the support and services not being provided, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

Notwithstanding this violation, MSDE finds that there is documentation that staff were aware of the behavioral needs of the student and the supports to be provided to her despite the absence of documentation that they had access to the student's IEP. Therefore, no student-specific corrective action is necessary to address this violation.

**CORRECTIVE ACTIONS/TIMELINES:**

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.



MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>2</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

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. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

### **Student-Specific**

MSDE requires HCPS to provide documentation by October 1, 2023, of the following action:

- a. Ensure that the complainant has copies of both the May 2022 and October 2022 IEPs.
- b. Provide the complainant with the opportunity to request a hearing to contest the denial of her request to amend the records.
- c. That the IEP team has met for the student to determine whether the delay in completing and reviewing the FBA recommended for the student on May 10, 2022 had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy 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.

### **School-Based**

In their response to allegation #4, the HCPS acknowledged that a violation occurred and proposed to develop a procedure and supporting documentation to implement when students are engaging in a partial transition between a private, separate, day school and an HCP S public school setting, including the provision of documents within required timelines. All HCPS nonpublic case managers will receive training on the procedure and documentation requirements. MSDE concurs with this proposal and appreciates the HCPS addressing the matter.

In their response to allegation #7, the HCPS acknowledged that a violation occurred and proposed to develop a procedure and supporting documentation to implement when students are engaging in a partial transition between a private, separate, day school and a HCPS public school setting, including distribution of documentation to school staff. All HCPS nonpublic case managers will receive training on the procedure and

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<sup>2</sup> 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 (1) 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 (1) year to complete. If noncompliance is not corrected in a timely manner, MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

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

[REDACTED]  
Dr. Terri Savage

July 3, 2023

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documentation requirements. MSDE concurs with this proposal and appreciates the HCPS addressing the matter.

MSDE requires the HCPS to provide documentation by October 1, 2023, that administrative staff at [REDACTED] are informed of the requirements under the IDEA for responding to requests to amend student's records.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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

Sincerely,

Dr. Deann Collins  
Deputy Superintendent  
Office of the Deputy Superintendent of Teaching and Learning

DMC:ra

c: Michael Martriano  
Terrell Savage  
[REDACTED]  
Alison Barmat  
Gerald Loiacono  
Diane Eisenstadt  
Rabiatu Akinlolu  
Paige Bradford