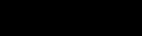




July 28, 2023




Dr. Terri Savage  
Executive Director of Special Education  
Howard County Public School System  
10910 Clarksville Pike  
Ellicott City, Maryland 21402

RE:   
Reference: #23-232

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 17, 2023<sup>1</sup>, MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son. 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 following allegations:

1. The HCPS did not ensure that the student's residential placement had access to the student's Individualized Education Program (IEP) which resulted in the support and services not being provided for the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.
2. The HCPS has not ensured that the student’s IEP included appropriate transition services since May 2022<sup>2</sup>, as required by 34 CFR §300.320.
3. The HCPS has not ensured that the student’s IEP included psychological services and counseling to address interfering behaviors, since May 2022, in accordance with 34 CFR §300.324.

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<sup>1</sup> The IDEA requires that MSDE resolve complaints within 60 days of the date received. However, in this case, to allow additional time to review documentation received, MSDE extended the timeline for investigation.

<sup>2</sup> While the complainant alleged that the violation occurred prior to this date, only those allegations of violations that occurred within one year of filing a complaint can be resolved through the State complaint investigation procedure (34 CFR §300.153).







the school system and the abuse that occurred in the schools and in the hospital. I believe he will benefit from psych counseling services.”

16. The IEP team met on May 17, 2023, and determined that the student would receive one hour and thirty minutes per month of direct counseling services and one hour per week of consultative counseling services per month. The IEP team has not, however, completed the development of the student’s IEP following this IEP team meeting, and there is no documentation that the change in these services has been implemented.
17. In a May 23, 2023, email sent to the [REDACTED] School staff, the complainant stated, “Someone reached out to me, I think in March about wanting to start psych counseling with [my son] ...I do want the service started...I do want him to receive the service. Thanks!”
18. The [REDACTED] School staff responded to the complainant’s concern in a return email stating, “...I spoke to our School Psychologist...who is the team member who reached out to you in March... [the school psychologist] was reaching out to you to review her recommended services for the new IEP as they were different from his current services...”
19. The IEP team met for the student on June 14, 2023, to continue the review of his IEP. The prior written notice from the June 14, 2023, IEP team meeting states, “... [The complainant] stated that [the student] needs more support and has not received the psychological services that he requires while at [REDACTED] [REDACTED] staff clarified that [the student] was provided counseling supports as outlined in his IEP at school. He was also provided with some additional counseling services in the residence through a grant. Those services [have] ended.”
20. The PWN from the June 14, 2023, IEP team meeting further provides: “[The student] receives counseling services as part of his school programming. He knows his coping strategies and shares, in sessions, what he should do when escalated. [The student] has difficulty accessing these strategies when he is in a heightened state. [The student] has improved in his ability to debrief after an event. He has identified key staff that he can seek out when he needs assistance. The team is introducing the use of the Zones of Regulation program to help [the student] have communication around his emotions. It was initially proposed that [the student] move to a consultative model of service delivery, however after discussing present levels and current goals, the team agreed to continue with direct service at the same rate and frequency as the previous IEP year.”
21. The IEP team met again on June 16, 2023. The PWN from that meeting does not reflect a discussion regarding the student’s counseling services.
22. There is no documentation, to date, that the IEP team has completed the review of the student’s IEP started on May 17, 2023.

**CONCLUSION:**

In developing each child's IEP, the IEP team must consider the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. In the case of a child whose behavior impedes the child's learning or that of others, the IEP team must also consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior (34 CFR § 300.324).

In this case, the complainant raised concerns related to the student's needs for counseling services on multiple occasions during the 2022-2023 school year. While the student was receiving some services indicated on his IEP and available to him at his school, the IEP team, to date, has not determined the level of services the student requires as part of his IEP.

Based on the Finding of Facts #16, #19, #21, and #22, MSDE finds that the HCPS has not ensured that the student's IEP included appropriate psychological services and counseling to address interfering behaviors, since May 2022, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did occur with respect to the allegation.

**ALLEGATIONS #4, #5, and #6:**

**EDUCATIONAL PLACEMENT, EVALUATION OF THE STUDENT, AND PROVISION OF DOCUMENTS PRIOR TO THE IEP TEAM MEETING**

**FINDINGS OF FACTS:**

23. The Maryland State Department of Education Annual Program Cost Sheet for the program year 2021-2022 lists HCPS as the jurisdiction/agency on the contract for services for the student at the [REDACTED] School.
24. During the placement discussion at the April 28, 2022, IEP team meeting, the PWN reflects, "The team discussed [the student's] progress in the program at [REDACTED]. [The student] has made significant progress with his behavior in the school setting. He continues to struggle with behavior in less structured situations and in the residence. In the residence, [the student] demonstrates behaviors such as aggression and disruption which have required restraint and/or crisis intervention. All team members agree that [the student] continues to require a residential placement. [REDACTED] team members shared that they feel [the student] may need a program that is more therapeutic in nature."
25. On February 16, 2023, HCPS staff communicated with staff members at the [REDACTED] school regarding the student's discharge from the residential program at [REDACTED]. Specifically, the email said, "Thank you for talking with me today about [the student's] transition planning. I have attached the Maryland Transition Guide as you requested. As a [follow-up], you will be working with others at [REDACTED] to determine if [the student] is able to continue as a residential student after his [21st] birthday. You indicated you will follow up with HCPS staff next week regarding the information you gather."
26. On February 20, 2023, [REDACTED] school staff reached out to the HCPS regarding the student's continued residential placement at [REDACTED]. The staff member shared, "I believe our leadership team is making arrangements to speak with [the complainant] about residential placement and I will move forward with working with both mom and [HCPS staff] to start planning for post-grad placement."

27. The complainant shared her concerns regarding her son's placement with the HCPS on several occasions. The parent had concerns regarding the student's experience in the residential facility at the [REDACTED] School, as well as concerns regarding the student being discharged from the residential program at the school when he turns 21 in October of 2023 as opposed to after he completes his program in 2024. Additionally, the complainant had concerns regarding the lack of oversight of her son's experience at [REDACTED] by the HCPS.
28. In an email dated March 6, 2023, addressed to staff at the [REDACTED] School, the complainant expressed her concerns regarding her son's discharge from the residential program at [REDACTED]. The complainant wrote:
- "I recall when we last spoke you mentioned early graduation for [my son]. I'm confused because [my son] is eligible to remain in school until he graduates at age 21. It's more confusing that the team had previously discussed [my son] remaining at the [REDACTED] School until age 21 with no mention of the residential concern that is now surfacing. At his prior IEP meeting less than one year ago, it was mentioned that [my son] is on track to graduate from the [REDACTED] School in June 2024...If his residential status was not secured there would be no educational plan to discuss regarding 2024, and his IEP documents should not state that he would finish in 2024...We were informed...that special arrangements could be made for [my son] depending on the funding...Howard County has confirmed that funding is not an issue. As you are aware we are now nearly 6 months from [my son's] 21st birthday, and discharge planning for my son has NOT been on the agenda as a topic of discussion to date...the only reason it is currently being discussed is because I innocently asked a question in the November 2022 Residential Meeting that was NOT related to his discharge. This is when I was nonchalantly informed that there were plans to discharge my son in October 2023. At the end of that meeting, I asked the remaining staff for documentation in writing regarding that policy and I was informed that I would receive documentation. To date, I have not received anything from [REDACTED] in writing regarding my request. I also left voice messages for [REDACTED] staff] on November 18, 2022, asking [to be contacted] regarding my concerns. When I could not reach [REDACTED] staff], I sent...an email on that same day asking [to be contacted], but I received no response. Surprisingly, this topic was NOT on the agenda for discussion at the most recent Residential Meeting in mid-February. [REDACTED] leadership] attended that meeting and left the meeting early without ever mentioning an anticipated discharge date for [my son] that is supposedly being planned within the next 7 months. I was informed...that the plan was to discharge [my son] from the residential facility by age 21. However, [REDACTED] leadership] did mention that the latest she could push [my son's] residential stay out would be to his 22nd birthday...[My son's] next IEP is scheduled for April 28, 2023, less than 5 months prior to his 21st birthday and his next Residential meeting is scheduled for mid-May 2023, a little more than 4 months prior to his 21st birthday...This matter is being poorly managed, in an untimely manner that is not in the best interest of my son."
29. On March 6, 2023, the complainant also sent an email to HCPS staff stating, "The [REDACTED] staff mentioned they have reached out to you numerous times since last May and you are not responding to them either...Earlier in the school year and you said you would be in touch with me, but I still have not heard from you. If you are not representing [my son] anymore, could you kindly let me know, and let me know why I wasn't informed of this change. There is a lot going on regarding [my son] possibly being discharged in October 2023. Were you aware of this? This was not in the plan, and I have not been given sufficient

time to prepare for his discharge. The plan was for him to return in June 2024 after graduation. I found out about this discharge by happenstance at the November residential meeting when I asked a question that was unrelated to discharge planning. Surprisingly this topic was not a part of the agenda in November 2022 nor was it a topic for discussion at the most recent residential meeting in mid-February 2023. We are now about 6 months away from tentative discharge planning...You have dropped the ball significantly regarding my son's well-being and I'm not sure why you are not responding or why I am stressing about this matter alone. I would like to know what is being done to support [my son] so he can complete his final 8 months at [redacted] I need this matter to be taken more seriously and I need much more support from Howard County's Special Education Department regarding this issue. Please let me know the plan going forward ASAP. Thank you."

30. The [redacted] School staff responded to the complainant's concerns in an email dated March 7, 2023, stating, "...I wanted to coordinate an appropriate time for you to speak with our leadership team...to address residential placement in relation to [your son] turning 21 in October...My focus is to start having more conversations about preparing [your son] for when he transitions to adult services."
31. The HCPS staff also responded on March 7, 2023, stating, "I apologize that I have not yet been in touch with you. Upon my return from being out of the office...I met [with other staff members] so we could debrief on your concerns and the actions [that had been] taken in my absence. Please know that I am invested in [your son's] success and your comfort with his well-being. I continue to attend all school meetings, even those that do not require school system participation when they are shared with me. I am disappointed to hear that on the one [meeting,] I was not able to attend while I was out of town, the conversation led to such anxiety for you. I have followed up with the contact that [HCPS staff] began with the [redacted] team. They were looking into the discharge policy for students who are also accessing the school program. I left a message today and will follow-up again tomorrow. I had not previously been given that information provided by [redacted] staff]. Was that shared in [a meeting] or during your intake/referral process? I will find a contact to reach out to her directly tomorrow as well. By the end of the day tomorrow (3/7), I will provide you with the [IEP]."
32. The complainant responded to the HCPS staff stating, "Are you saying you are not required to attend the residential meetings for an out-of-state student? Regardless of whether it is required for you to attend, the school requested your presence because there were obviously concerns about the residential that they wanted to address. Therefore, you were invited to every residential meeting since you have taken over [my son's] care. The last meeting you attended was in May 2022...You did not show up for the following quarterly Residential Meeting in August, as [redacted] was very disappointed and was trying to reach you that day to attend. They also wanted to update you regarding recommendations they had about [my son] needing additional psych services...You did not show up for the Residential Meeting in November 2022 which was the day by happenstance I received word of the plans to discharge [my son] in October 2023. If you were at that meeting, I would hope that you would have said something to support him at that time and we would have met with the team regarding this whole ordeal much sooner. The most recent quarterly meeting was held in mid-February. I'm not sure who you told you would not be available to, but when I asked if you would be there, supposedly no one had heard from you."



33. In an email dated March 12, 2023, the complainant sent correspondence to the [REDACTED] School and HCPS staff stating the following:

- i. "...In the residential meeting last [month,] we discussed other behavioral triggers that were not reported in the graph. I mentioned most of the calls I received about behavior were associated with fire alarms going off or because of other students at school, but mainly the lower functioning students in the residential setting who are doing things to trigger him. The behavior therapist who was at this meeting said he had information that he could provide regarding those specific incidents involving other students..."
- ii. "...Second, [my son's] residential placement. I mentioned he needs to be in a setting where he would have appropriate peers to interact with...He has been at [REDACTED] for more than 3 years and he has made significant behavior strides. Why can't he be considered for a more appropriate building that can meet his social needs? I was repeatedly told it was a space issue...Then the reason changed and I was told he couldn't be placed due to his behavior. I realize his behavior is challenging but he is in a unit where none of the kids can talk and all they do is scream and annoy him. He has absolutely no one to socialize with except the staff...It's not fair; why won't anyone give him a chance to be in a more suitable environment? [Friends and family] recently said he was so sad and tearful when having to go back to 502... he said he's lonely and he doesn't have any friends. He's a high-functioning young man who really needs to be around more high-functioning peers, why can't he have a fair chance to be placed in the proper residential setting since that setting is available on the [REDACTED] campus?...My son] has no sense of normalcy in 502 and he looks forward to outings with his uncle just to experience normalcy...can he PLEASE be moved to a more appropriate setting so he can have a sense of normalcy?"

34. On March 15, 2023, the complainant emailed the HCPS and requested, among other things, a copy of her son's most current IEP, the current transition plan, and the HCPS' intent to provide payment through age 21 for the "educational and residential [placement]."

35. The HCPS responded on March 22, 2023, by forwarding the complainant's email to the [REDACTED] School and attaching "...another copy of the IEP" stating that at the next IEP meeting placement would be discussed.

36. On March 24, 2023, the complainant emailed the HCPS and requested to be provided with the list of school options that had been "lined up for [the complainant] to consider."

37. The HCPS responded with the list on March 27, 2023, which included "all [MSDE-approved] schools that include a residential component and serve students with similar learning profiles [as the student]". The HCPS also proposed to set up a time to speak by phone.

38. On April 25, 2023, the complainant reached out to [REDACTED] staff asking if HCPS had forwarded a copy of the student's draft IEP for the scheduled meeting on April 26, 2023.

39. On April 26, 2023, staff at the [REDACTED] School replied to the complainant's request by stating, "The [REDACTED] [Team] typically sends out the [REDACTED] [Proposed Education] Plan (PEP) to the team and then the district will incorporate [our] documents into their IEP to make the final IEP document. Please see the PEP attached for your review if it was not already sent out."
40. On April 26, 2023, HCPS staff sent an email to the student's IEP team stating that she did not have a draft IEP prepared for the scheduled April 26, 2023, IEP meeting, and requested that the complainant let her know if she wanted to continue with the meeting or reschedule.
41. On that same day the complainant responded to the HCPS staff by stating, "Thank you for your email, but I am extremely confused and disappointed to receive your message, [and] I'm even more concerned that this legal document was not prepared and provided to me within the appropriate time frame, so the team could move forward with planning for [my son]. This annual IEP and residential meeting has been scheduled many weeks in advance. Knowing the seriousness of the topics which need to be discussed today I am extremely disheartened that you would propose changing the meeting format one hour prior to the scheduled meeting time. I was under the impression that this would be [my son's] Annual IEP where I would gain answers about his upcoming placement, not a "planning meeting" where you could extract information from [REDACTED] to formulate my son's IEP. Just to clarify, it is Howard County's responsibility to provide the Individualized Education Plan at all IEP meetings for my son. It is not the responsibility of [REDACTED] who is the receiving school. I would also like to clarify that the IEP draft is provided to the parent 5 days prior to the IEP meeting, not 5 days after a scheduled IEP that was converted to a planning meeting. I understand that you may not be prepared, and I appreciate your wanting to proceed with the scheduled meeting time for a discussion, but this would not be in the best interest of [my son] as Howard County has no draft prepared to discuss..."
42. The IEP team meeting scheduled for April 26, 2023, was rescheduled to May 17, 2023.
43. On May 1, 2023, the HCPS staff emailed the student's IEP team stating that the draft IEP would be available "by the end of the day on Friday, 5/5" and provided meeting dates and times for the complainant to choose from to hold the meeting.
44. On May 5, 2023, HCPS staff responded that the IEP meeting was confirmed, and notices and log-in information would be sent out shortly. HCPS staff also stated, "I am still making some adjustments to the draft and will have that to you early next week. I previously indicated that it would be ready today."
45. On May 8, 2023, the complainant sent the following email to the HCPS staff, "This is an early reminder requesting that you PLEASE make sure that the draft of [my son's] IEP is sent to me...and ALL appropriate staff at the [REDACTED] School no less than 5 BUSINESS DAYS prior to the rescheduled annual IEP meeting date on May 17, 2023. Everyone needs to have sufficient time to review this document so that the best decisions can be made for my son. Just to FYI, Five BUSINESS DAYS will be on May 10, 2023, no later than [1:00] pm est. I am sending this reminder because I am extremely concerned about your pattern of unpreparedness, and how it has significantly impacted [my son's] care in all areas of [his] IEP, as well as the related services. Please respond to this email to confirm that you are in receipt of this email request. Thank you."

46. There is no record of an HCPS response to the receipt of the email.
47. On May 10, 2023, HCPS staff sent the following email, "Please see the attached draft IEP for [the student's] meeting next week...If you have requests for revision prior to the meeting, please send those to me for consideration."
48. On May 16, 2023, the student's IEP meeting was again rescheduled at the request of the parent due to her advocate's medical emergency.
49. On June 8, 2023, the complainant emailed HCPS staff with the following requests, "Can you please tell me where we are with a list of schools for my son? Also, can you please tell me why you did not inform me that you met with [redacted] on March 20, 2023, and May 23, 2023, regarding [my son]? [redacted] staff] stated that you were informed that [my son] could no longer stay at [redacted] in March [2023], but you neglected to inform me yet you sent me a listing of schools only after I mentioned that you had not sent me this information that you had promised to send nearly a year prior. During yesterday's IEP meeting when I was trying to prove that I had no knowledge of [his] discharge being confirmed, you never once mentioned that you were aware. Why didn't you tell me that you had met with [redacted] or provide me with an update regarding the matter? Can you please send me the minutes from those 2 meetings? What have you done on my son's behalf since you were made aware? He will be turning 21 in 3 months, and he has had no transition plan for over a year. [My son] is diploma track, and none of those schools were appropriate to meet his needs."
50. There is no documentation of a response to the complainant's email from the HCPS.
51. During the IEP team meeting, the complainant requested that the IEP team address the student's placement as he may not be able to stay in the facility beyond his 21st birthday. HCPS staff agreed to resolve the matter with the school to determine if the student could remain at [redacted]. The IEP team agreed to reconvene to complete the discussion of the student's placement.
52. On June 9, 2023, the [redacted] school reached out to the complainant by email to confirm a date for the student's IEP meeting.
53. On June 14, 2023, the IEP team met to continue the review of the student's IEP. The prior written notice generated following the meeting reflects that at this meeting, the complainant reported that the student's behaviors are sometimes triggered by students he resides with who are lower functioning than him. She requested that the student reside with students whose skills are closer to his. The complainant also asked clarifying questions about the residential policy that was provided to her. She stated that the student needs more support and has not received the psychological services that he requires while at [redacted]. [redacted] staff clarified that the student was provided counseling supports as outlined in his IEP at school. The IEP team noted that: "It was summarized by the residential team that [the student] has made limited behavioral progress since admission, despite numerous treatment plans being in place. It was suggested that he needs a school location with more specific psychological intervention. The [redacted] team reviewed the regulation that states that [the student] can not remain in the pediatric residence past the age of 21. A follow-up meeting will be scheduled with the IDT to discuss residential options and to ask further clarifying questions."

54. On June 16, 2023, the IEP team met to complete the review of the student's IEP. The prior written notice from that meeting provides the following: "[The student's] OT shared about his strengths and needs. The team agreed to a new assessment based on the need for more information for program planning. The assessment would be completed by the [redacted] team and reviewed in an IEP meeting. [The complainant] expressed concern about [the student's] speech. The team agreed to conduct [a speech] assessment to address [the student's] articulation. [The student's] SLP at [redacted] will continue to address his articulation during the ESY session. [The complainant] requested that the assessment be completed by HCPS staff while [the student] is home for his summer break. She also requested that he have a full assessment in all areas of speech and language due to her concerns with overall regression in his speech skills. The team agreed to the assessment of speech, as well as expressive and receptive language. A consent form will be sent following the meeting and [HCPS staff] will request that the assessment be completed during [the student's] break by the SLP on our County Diagnostic Team. If that is not possible, the HCPS will contract with the local district in [redacted] to have the assessment complete."
55. According to the student's IEP dated April 28, 2022, his most recent evaluation date was February 12, 2019. To date, there is no documentation that the IEP team has completed the evaluation that began on June 16, 2023, or that the IEP and the parent agreed that one was not necessary prior to February 2022
56. To date, the IEP team has not determined the student's placement beyond the date that he turns 21 during the 2023-2024 school year.

#### **CONCLUSIONS:**

##### **Allegation #4:**

##### **Determination of the Student's Placement**

In determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child (34 CFR § 300.116). Additionally, this placement must be determined at least annually; based on the child's IEP; and as close as possible to the child's home (34 CFR § 300.116). Moreover, in selecting the LRE (Least Restrictive Environment), consideration should be given to any potentially harmful effect on the child or on the quality of services that he or she needs (34 CFR § 300.116).

In this case, the HCPS has not consistently upheld its responsibility to participate in the placement decision of the student. By not ensuring that the student has an IEP in place annually, not consistently attending residential placement meetings, not responding to or addressing parent concerns, and not consistently communicating with the parent and the [redacted] School regarding student placement and behavior concerns, the HCPS has not considered potentially harmful effects of the placement on the child or the quality of services that he needs.

Based on the Finding of Facts #1 to #11, #13, #16, #19, #21, #22 to #27, #29, #30 to #37, #39 to #50, and #53 to #56, MSDE finds that the HCPS has not followed proper procedures when determining the student's educational placement since August 2022, in accordance with 34 CFR §§300.114 -.116. Therefore, this office finds that a violation did occur with respect to the allegation.

**Allegation #5: Evaluation of the Student**

A public agency must ensure that a reevaluation of each child with a disability is conducted if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child, warrant a reevaluation; or if the child's parent or teacher requests a reevaluation. The reevaluation may occur not more than once a year unless the parent and the public agency agree otherwise; and must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary (34 CFR § 300.303).

Based on the Finding of Facts #54 and #55, MSDE finds that the HCPS has not ensured that a reevaluation of the student occurred at least every three years since May 2022, in accordance with 34 CFR §300.303. Therefore, this office finds that a violation did occur with respect to the allegation.

**Allegation #6 Provision of documents prior to IEP meeting**

**CONCLUSION:**

A public agency shall take steps to ensure that one or both of the parents of the student with a disability are present or are afforded an opportunity to attend and participate at meetings of the IEP team. Consistent with Education Article, §8-405(c), Annotated Code of Maryland, appropriate school personnel shall provide the parent of a student with a disability an accessible copy of each assessment, report, data chart, draft IEP, or other document the IEP team or other multidisciplinary team plans to discuss at that meeting, at least 5 business days before the scheduled meeting; and the completed IEP not later than 5 business days after a scheduled IEP or other multidisciplinary team meeting (COMAR 13A.05.01.07).

Based on the Finding of Facts #38, #39, #40, #41, #42, and #43, MSDE finds that the HCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the planned April 26, 2023, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07; however, that meeting was not convened. Therefore, this office does not find that a violation did occur with respect to the allegation.

**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>3</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.

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<sup>3</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

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>4</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 the HCPS to provide documentation by September 15, 2023, that the IEP team has completed the evaluation and review of the student's IEP, including a determination of the appropriate behavioral supports and services, transition activities, and placement has been completed for the student.

The HCPS must also provide documentation by the same date that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to address the violations related to developing the student's IEP, implementing the student's IEP, determining his placement, and completing an evaluation of the student, and developed a plan for the provision of those services. As a part of these considerations, HCPS must coordinate with the family, adult services, and the [REDACTED] School, to determine exactly where the student will reside and where he will continue his education once he turns 21 years of age through the end of the 2023-2024 school year. Further, the compensatory services the student receives must address the lack of transition services and activities that the student has not had the opportunity to participate in and have not been included as a part of his IEP, while attending the [REDACTED] School.

The HCPS must ensure that the complainant is provided with written notice of the team's decisions. The (parents or complainants) maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

### **Systemic**

The HCPS must develop a written procedure that explains the responsibilities of the HCPS to students placed in out-of-state residential placements and lays out a process to ensure that HCPS staff oversee and supervise the provision of FAPE to students. This procedure must include an explanation of the manner in which the HCPS will ensure that staff at out-of-state residential schools are aware of their responsibilities to implement the IEPs of HCPS students placed at the school.

MSDE further requires that the HCPS review the records of each student placed in an out-of-state residential school to ensure that they have been provided with the supports and services required by their IEPs.

The HCPS must also develop and implement monitoring tools to be used for students who have been placed in out-of-state residential nonpublic schools. These tools should include quarterly monitoring data of students' present levels of academic achievement and functional performance, even if based on information provided by the residential placement. These tools should also include monitoring data of parent concerns regarding the student's academic/behavioral/social-emotional progress at the residential placement, in addition to a parent contact log. The HCPS must also keep a calendar of meetings with the residential placement site and provide notes from residential placement meetings and conversations with staff at the residential placement. Additionally, the HCPS must keep a calendar of yearly site visits and notes from said visits for every student in an out-of-state nonpublic placement. These tools should be developed and implemented no later than October 1, 2023, and evidence of the use of these tools for every student in an out-of-state residential placement must be provided to MSDE no later than January 1, 2024.

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<sup>4</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.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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 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 M. Collins  
Deputy Superintendent  
Office of the Deputy Superintendent of Teaching and Learning

DMC/ebh

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