



July 27, 2023



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

RE: [REDACTED]  
Reference: #23-248

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.

**ALLEGATION:**

On June 1, 2023, MSDE received a complaint from Ms. [REDACTED] 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 that the HCPS did not follow proper procedures when conducting a reevaluation of the student, since November 22, 2022, in accordance with 34 CFR §§300.303- .306.

**BACKGROUND:**

The student is six years old and attends [REDACTED] School. He is identified as a student with Developmental Disabilities under the IDEA and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

**FINDING OF FACTS:**

1. The IEP in effect on November 1, 2022, reflects that the most recent evaluation of the student was completed on July 19, 2021, with a projected evaluation date of July 19, 2024. The IEP reflects a disability classification of Developmental Delay. The areas impacted by the disability include Articulation, Social/Emotional, and Fine Motor. The IEP reflects goals in Self-Management/Behavior, Written Expression Mechanics, and Communication.

2. On September 15, 2022, the IEP team met to review private assessments completed for the student. The IEP team noted that the private neuropsychological and physical therapy reports provided the team with information about the student's diagnosis but did not make recommendations for the school setting. The IEP team determined that additional assessments were needed to determine the student's eligibility under the IDEA. The IEP team recommended that educational and psychological assessments be completed for the student in the areas of Reading Skills, Reading Comprehension, Reading Fluency, Mathematics Calculation, Mathematics Reasoning, and Written Expression.
3. On November 20, 2022, the IEP team met to review the assessment results, complete the evaluation process and, if appropriate, determine eligibility for special education and related services.
4. During the IEP team meeting, the team completed the "Attention Deficit Hyperactivity Disorder (ADHD) Supplement form", and determined that although the student meets the criteria for ADHD-predominantly hyperactive-impulsive presentation, there was "no educational impact" based on the formal educational (Woodcock-Johnson IV), informal reading data, and classroom teacher input. Therefore, the student did not meet the criteria for the educational disability of Other Health Impairment (OHI).
5. The team completed the "Developmental Delay (DD) Supplement form" and determined there is a 25% delay and atypical development in the area of social and emotional development. However, the IEP team again determined that there was "no educational impact" based on the formal educational and classroom-based assessment.
6. Based on the review of the HCPS educational assessment, psychological assessment, and an occupational therapy report from [REDACTED] [REDACTED] the IEP team determined that the student no longer qualifies as a student with a disability under the IDEA. The parent expressed disagreement concerning the decision, and the IEP team agreed to reconvene to further discuss the student's eligibility and consider additional information from the parent.
7. On December 9, 2022, the IEP team met to continue the discussion of the student's eligibility started on November 22, 2022. The IEP team discussed the educational assessment. The complainant expressed concerns regarding the completion of the assessment due to limited data in the written expression subtest. The IEP team informed the advocate and the parent that at the kindergarten grade level, not all subtests of the Woodcock Johnson - IV (WJ-IV) are administered since students just started receiving writing instruction. The IEP team also shared that the written expression assessment was completed and that decisions regarding writing are made based on formal assessment, informal assessment, and teacher input. The team also noted that the writing related subtest was discussed under the reading section of the Education Assessment report. The team stated it was an error and a new report would be provided with the correction showing writing subtests under the writing section of the report. The general educator shared that the student was making progress and is able to develop sentences. The OT shared that the student has mastered IEP objectives related to writing. The IEP team determined that, based on assessments and progress on the student's annual goals, he no longer qualified under the IDEA. The IEP team agreed that he would be referred to a Section 504 team for an eligibility determination. The parent expressed disagreement with the school team's decision to dismiss the student from special education based on concerns regarding his current progress in writing and data collection.
8. On January 27, 2023, the IEP team met and reviewed additional information shared by the parent including a "pain assessment report" from [REDACTED] and a "pediatric

developmental evaluation report from [REDACTED]. Based on this review, and due to missing data from the progress reports of the first quarter of the 2022-2023 school year, the IEP team determined that the student continued to qualify as a student with a disability under the IDEA. The IEP team agreed that the most recent IEP would continue to be implemented with additional supplementary aids from the independent assessment review. The team agreed to continue to gather data during the second and third quarters of the 2022-2023 school year before revisiting the eligibility decision. On February 22, 2023, the IEP team met to review assessment results, complete the evaluation process and, if appropriate, determine eligibility for special education and related services. The IEP team reviewed information provided by the parent from [REDACTED] [REDACTED] [REDACTED] developmental evaluation. The IEP team disagreed with the diagnosis of dysgraphia in the independent assessment stating that it was not consistent with existing data from the education setting.

9. The IEP team also reviewed occupational therapy data collected by the IEP team for the student indicating that the student was able to form neat handwriting with accurate letter formation while utilizing an age-appropriate grasp. The HCPS OT shared that the school team saw what is in the qualitative section of the [REDACTED] developmental evaluation in the classroom but did not agree with the analysis section. These two sections of the independent assessment contradict each other. The OT further explained the contradiction within the report describing his grasp. The IEP team discussed each recommendation and considered the appropriateness and the need for the support to be added to the IEP. The team ran out of time and did not finish going through all recommendations from the independent assessment. The team scheduled a continuation meeting to finish reviewing recommendations.
10. The IEP team did not conclude the eligibility determination on February 22, 2023. The IEP team proposed reconvening at a later date. The HCPS proposed, and the parent initially agreed, to meetings on March 7, 21, 24, and April 11, and 17, 2023, that were rescheduled at the family's request.
11. On April 26, 2023, the IEP team again met to conclude their review of the student's eligibility under the IDEA. The IEP team began a consideration of the student's eligibility with a specific learning disability but did not complete the review. The IEP team agreed to reconvene to complete the review. The IEP team agreed to reconvene on May 4, 2023, but this meeting was canceled at the parent's request.
12. On May 8, 2023, the IEP team met to complete the review of the student's eligibility under the IDEA. Following a review of the assessment data, the IEP team agreed that the student did not meet the eligibility criteria as a student with a specific learning disability, Other Health Impairment, or Developmental Delay and thus was not eligible as a student with a disability under the IDEA. The IEP team agreed that the student should be referred to a Section 504 team.

#### **DISCUSSION/CONCLUSIONS:**

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 (34 CFR §300.303).

As part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including, evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers. Based on that review and input from the child's parents, the IEP Team must identify what additional data, if any, are needed to determine whether the child continues to have such a disability and the educational needs of the child.

A public agency must evaluate a child with a disability before determining that the child is no longer a child with a disability (34 CFR §300.305).

Based on Findings of Facts #1 through 12, MSDE finds that the HCPS ensured that the proper procedures were followed when completing the re-evaluation of the student, in accordance with 34 CFR §§300.303-.306. Therefore, this office finds that a violation did not occur with respect to this allegation.

**TIMELINES:**

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  
Division of Early Intervention/Special Education Services

DMC/ra

c: Terri Savage  
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