


August 8, 2023




Ms. Terrell Savage
Executive Director of Special Education
Howard County Public Schools
10910 Clarksville Pike
Ellicott City, Maryland 21042

RE: 
Reference: #23-258

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 June 9, 2023, MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public School System (HCPSS) 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 HCPSS did not follow proper procedures when determining the student’s educational placement since June 9, 2022, in accordance with 34 CFR §§300.114 - .116 and .321.
2. The HCPSS did not develop an appropriate Individualized Education Program (IEP) that addresses the student’s identified behavioral needs since June 9, 2022, in accordance with 34 CFR §300.324.
3. The HCPSS did not consider the need for Extended School Year (ESY) services since June 9, 2022¹, in accordance with 34 CFR §300.106, COMAR 13A.05.01.07B(2) and COMAR 13A.05.01.08B(2).

BACKGROUND:

The student is 12 years old and is identified as a student with Autism under the IDEA. He attends  school and has an IEP that requires the provision of special education instruction and related services.

¹ Correction in the date noted in the Letter of Initiation and used throughout the investigation.

FINDINGS OF FACTS:

1. The IEP in effect as of June 9, 2022, reflects the student being provided with support in the areas of written language, self-management/behavior, social/emotional. The IEP requires that the student receive 10 hours of special education instruction weekly inside of the general education classroom, 5 hours weekly outside of the general education classroom. The student also receives one 30- minute session a week of counseling outside of the general education setting, and 30 minutes quarterly of occupational therapy.
2. The student requires supplementary aids and services in the area of academics. He requires accommodations to help him monitor independent work, the use of manipulatives, graphing paper for math, check for understanding, reduced workload on assignments and tests, allowed to complete work over a variety of days, and chunked assignments.
3. The student requires supplementary aids and services in the area of behavior. He requires accommodations to assist with transitions to ensure safety, needs encouragement asking for assistance when needed, the use of a reinforcement chart, manipulatives and/or sensory activities to promote listening and focusing skills, visual schedule when his schedule has change, access to snacks and snack breaks throughout his day, crisis intervention (support) on a daily basis from a trusted adult in order to prevent a crisis and deescalate the student when in crisis in order to implement the Behavior Intervention Plan (BIP) successfully.
4. The student's IEP in effect as of June 9, 2022, reflects the student's goals in the areas of social/emotional states that by "January 7, 2023, the student will apply coping skills to regulate his mood/thoughts in order to complete non-preferred academic tasks. The IEP further reflects that on April 1, 2022, the student was making sufficient progress to meet this goal.
5. The student's IEP in effect as of June 9, 2022, reflects the student's goals in the areas of self-management/behavior states that by "January 7, 2023, the student will use coping strategies to manage his behaviors and comply with directions/tasks that are given to him." The IEP further reflects that on April 1, 2022, the student was making sufficient progress to meet his goal.
6. During the 2021- 2022 school year, the student's report card reflects he earned grades of "As" and "Bs".
7. The IEP team determined that the student does not have IEP goals that are considered to be critical life skills, therefore, they found that the student was not eligible for or ESY for the summer of the 2021-2022 school year.
8. On June 9, 2022, the IEP team met to "discuss Middle School Transition." The IEP team discussed the student's present level of academic performance, special consideration, accommodations, supplementary aids and services, along with program modifications. There were no revisions made to the goals and objectives. The IEP team proposed to decrease the student's hours to 4 hours and 15 minutes weekly outside of the general education setting for an instructional support seminar, 12 hours weekly and 8 hours inside of the general education setting for science and social studies.
9. During the meeting, the school team shared that [REDACTED] School [REDACTED] "cannot meet the student's needs" due to the student requiring consistent adult supervision, crisis intervention, and completing work over multiple days. The parents shared their concerns of "feeling blindsided that [REDACTED] would not be able to meet his needs." The parents feel the school team was not transparent and the discussion of the student not being able to attend [REDACTED] should have taken place prior to the "third

grade.” The parents shared concern that the student’s grades do not reflect the need to attend [REDACTED] School ([REDACTED]) and there was no mention on the student’s progress reports and or report card that states that the student was not on track for middle school. A school- based member shared that the reason is “not academic based and is based on his ability to learn.”

10. A continuation meeting was recommended, and the complainant requested that data be collected to help with the determination. There is no documentation the data was provided to the complainant.
11. On June 13, 2023, the IEP team met to continue the conversation of transition to the newly recommended school and discuss the student’s least restrictive environment (LRE). The IEP team engaged the complainant in a discussion regarding services for middle school. The team proposed eight hours outside of the general education classroom for English language arts and instructional support seminar and 12 hours in the general education classroom for science, social studies, math weekly and related arts will be supported through the supplementary aids and services along with the support of a paraeducator. The IEP team discussed placement and determined that the student’s home school “[REDACTED] would not be able to implement the supplementary aids and services, specifically the “student’s behavior plan.” A staff member from [REDACTED] shared that the school would be able to implement the IEP and BIP as it is a comprehensive middle school that has additional staff to manage behaviors and allows for services to be provided outside of the general education classroom.
12. The parents shared their concerns about the school and asked specific questions regarding the program. A school- based team member from [REDACTED] responded to how they would be able to support the student. The IEP team determined there would not be a LRE decision made, and the team would reschedule another continuation meeting to make a decision per the request of the parent to have additional time to think through and process the information provided.
13. On July 26, 2022, the IEP team met to continue the conversation of placement and discuss the student’s LRE. School based members from [REDACTED] and [REDACTED] were present at the meeting and answered parent questions from a list presented to the IEP team prior to the meeting. The IEP team reviewed the service hours proposed at the previous IEP meeting held on June 13, 2022, and determined they are appropriate.
14. A member of the school-based team shared that [REDACTED] could not implement portions of the BIP and that it requires a more consistent level of therapeutic support and psychological services than can be provided in his homeschool and the number of service hours the student's IEP requires.
15. A member of the [REDACTED] stated that [REDACTED] could implement the IEP and BIP as well as the recommended middle school service hours. The IEP team determined the student will be placed at [REDACTED] as his service school for the next academic school year as [REDACTED] is a comprehensive middle school with a dedicated staffing, a full-time school psychologist, dedicated classrooms, and resources that can implement the student’s IEP, address his goals and objectives while providing access to his diploma-bound programming. The parents agreed with “reservation” for placement to be at [REDACTED] for the start of the 2022-2023 academic school year as they still had concerns about the process and placement for the school year. The team amended the IEP to update the LRE.
16. On September 16, 2022, the IEP team met for an interim review. During the meeting, the complainants shared their concerns about building a relationship as a team at [REDACTED] and the student’s behavior as he is receiving behavioral referrals. The complainants also inquired if the number of referrals would have an impact on his acceptance into high school. A school-based member of the team shared the

way she will communicate with the complainant to help with relationship building, and another explained to the complainant the number of referrals a student receives will not hinder the student's placement into high school.

17. On October 7, 2023, the IEP team met for an interim review and to discuss the student's work completion, which is addressed through his self-management goal and his BIP. The IEP team updated the parents on the student progress as well as informed them about minor work avoidance at times. The complainant shared that the student at times does not do well on standardized tests, struggles with reading and writing tasks, and has a "vision convergence" that causes him to work slower at times.
18. On December 2, 2022, the IEP team met to review the student's progress and prepare for his annual review in January. The IEP team provided updates in the area of social/emotional, written language, and self- management. The team proposed adding a goal in the area addressing social Interaction. Although the student had improved his peer interaction by eating lunch with other students, playing games with them, most of the student's negative peer interactions stemmed from "attempting to gain positive attention in the wrong way or his perception of another peer in which something negative was aimed at him." The complainant shared her concern that she never agreed with the student having a "safety plan", therefore the IEP team agreed that the school team would work with the psychologist to incorporate it into the BIP.
19. On January 06, 2023, the IEP team met to conduct an annual review of the IEP. The IEP team determined that most of the student's present level of academic achievement and performance was discussed in the December 2, 2022, meeting. The IEP team updated the BIP and reformatted it to the new MSDE form. Revisions were made to reflect the implementation since transitioning to middle school and adjust behaviors that have decreased due to the student being more tolerable and now working on being accountable. The BIP was also revised to add "physical celebrations and the daily feedback sheet" which has been effective. A school-based member of the team described that the student "is better able to manage/recover from his frustration, but overall mood continues to be subdued after frustration." The IEP team reviewed and considered the student's supplementary aids and services and program modifications. The team determined that a social emotional goal to address negative interaction with staff and peers should be added.
20. The student requires supplementary aids and services in the area of academics. He continues to require accommodations to help him monitor independent work, repeat and/or paraphrase information, graphing paper for math, check for understanding, and reduce the quantity of items required to demonstrate mastery/competency on grade level curriculum standards under direction and consultation with the general educator of record.
21. The student requires supplementary aids and services in the area of behavior. He continues to require accommodations to assist with transitions to ensure safety, needs encouragement asking for assistance when needed, the use of a reinforcement chart, manipulatives and/or sensory activities to promote listening and focusing skills, visual schedule, access to snacks and snack breaks throughout his day, daily school to home communication, crisis intervention (support) on a daily basis, provide frequent changes in activities or opportunities for movement, and access to breaks.
22. On February 17, 2023, the IEP team met to discuss ESY. The team determined that the student now has critical life skills in the areas of social interaction & self-management. It was determined by the team that it is appropriate for social interactions to be the primary focus for ESY as well as work on work completion. The IEP team determined the student would attend the SOAR Program (Social

Opportunities and Relationships) to assist with the goals and objectives selected by the team.

23. On April 28, 2023, the IEP met to conduct an interim review to address the complainant's concerns. During the meeting, the IEP team discussed the need to place the student in a "small group" outside of the general education class for science due to recent "aggressive incidents", and noted the removal was beneficial for the student. Members of the school team state the student struggles coming back from negative situations, had a few negative interactions with peers, but is making progress across the classes. The complainant reminded the IEP team the Regional English Language Arts class has "been a good fit for the student this year."
24. On June 09, 2023, the IEP team met to discuss scheduling for seventh grade and the student's behaviors. The IEP team shares the student's transition into Regional Science has been positive, his time in class went up, non-compliance went down, elopement went down, and negative peer interactions went down. However, towards the end of the year, there had been an increase in intense behaviors with no pattern of triggers identified. The complainant expressed her continued concern about being surprised by the [REDACTED] placement in June of the previous year, and expressed concern about a possible placement at another school if the behaviors persist. A school based member explained that [REDACTED] can meet the students' needs and has no concerns about needing a more restrictive placement.
25. During the 2022-2023 school year, the student was suspended on the following dates:
 - One day on December 16, 2022, for "Attack on Student;
 - One day on January 11, 2023, for "Attack on Student"; and
 - One day on June 14, 2023, for "Computer/Communication Misuse."
26. During the 2022-2023 school year, the student received In-School Intervention during which he was removed from the classroom environment on the following dates:
 - One day on March 21, 2023, for "Theft;
 - One day on June 8, 2023, for "Disruption: Classroom or school"; and
 - One day on June 9, 2023, for "Disruption: Classroom or school."
27. During the 2022- 2023 school year, there is documentation of the student participating in violations of misconduct such as "class cutting, destruction of property, bullying/ cyberbullying/ harassment/ intimidation, disrespect" and receiving a "conference with the teacher, exclusion from the class, detention during lunch, or having his parent contacted.
28. During the 2022- 2023 school year, there is documentation of the school staff communicating with the student's parents with a "weekly summary" regarding the student's behaviors in which the school staff highlighted his strengths and area of concerns for the week.
29. During the 2022- 2023 school year, the student's report card reflects him earning grades of "A", "B", and "C" while also making the honor roll during first and second quarter.

DISCUSSION/CONCLUSIONS:

ALLEGATION #1: PLACEMENT DETERMINATION

Based on the Finding of Facts #1 to #15, MSDE finds the HCPSS did follow proper procedures when determining the student's educational placement since June 9, 2022, in accordance with 34 CFR §§300.114 - .116 and .321. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #2: DEVELOPMENT OF THE IEP THAT ADDRESS THE STUDENT'S BEHAVIORAL NEEDS

Based on the Findings of Facts #1 to #29, MSDE finds, the HCPSS did develop an appropriate IEP that addresses the student's identified behavioral needs since June 9, 2022, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur with respect to the allegation.

ALLEGATION #3: CONSIDER THE NEED FOR EXTENDED SCHOOL YEAR

Based on the Findings of Facts # 1 to #7, and #22, MSDE finds that HCPSS did consider the need for ESY services since June 9, 2022, in accordance with 34 CFR §300.106, COMAR 13A.05.01.07B(2) and COMAR 13A.05.01.08B(2). Therefore, this office finds that a violation did not occur with respect to the allegation.

TIMELINE:

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

DCsj

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