



Mohammed Choudhury  
State Superintendent of Schools

August 11, 2023



Ms. Colleen Sasdelli  
Director of Special Education  
Harford County Public Schools  
102 S. Hickory Avenue  
Bel Air, MD 21014

RE: [REDACTED]  
Reference: #23- 263

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 13, 2023, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Harford 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 follow the proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since May 3, 2023, in accordance with 34 CFR §§300.111 and 301-.306 and COMAR 13A.05.01.06.
2. The HCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student’s educational record, since May 3, 2023, in accordance with 34 CFR §300.613.

**BACKGROUND:**

The student is ten years old and has a clinical diagnosis of Other Specified Trauma and Stressor-Related Disorder, Social Anxiety Disorder, Other Specified Attention Deficit Hyperactivity Disorder. He attends [REDACTED] School. The student does not currently receive special education services.

**FINDINGS OF FACTS:**

1. On May 8, 2023, a written referral was made by the parent to HCPS for the student to be evaluated for special education services through Child Find. The referral reflected concerns in the areas of social/emotional/behavioral, and academic performance in written expression and written language mechanics. There is no documentation of the complainant making a referral prior to May 8, 2023.
2. On May 12, 2023, HCPS completed a "Review of Educational Assessment Completed by Outside Agency" form after receiving a private assessment from the complainant. HCPS received a Wechsler Individual Achievement Test, Fourth Edition (WIAT-IV) that was conducted on December 7, 2022, completed by Mt. [REDACTED]. It is not clear when the assessment was received. The psychological report states the student was diagnosed with Other Specified Trauma- and Stressor-Related Disorder, Social Anxiety Disorder, and Other Specified Attention/Deficit Hyperactivity Disorder (ADHD). As indicated in the evaluation, the student "does not meet full criteria for ADHD due to the presence of symptoms in limited life domains."
3. On June 14, 2023, the IEP team met in response to the complainant's referral to review the [REDACTED] assessment, determine the need for additional assessments, review parent input, teacher input, and consider informal classroom data. During the meeting, the parent shared specific concerns about attention, social/emotional, and focus/concentration. The classroom teacher shared the student is performing on grade level in reading, writing, and math. The student's recent report card reflects grades "A" in reading, "A" in writing, "B" in math, and "A" in science and an "A" in social studies the previous quarter."
4. The student's academic achievement was also evaluated in the private assessment. The report provided academic standard scores, percentiles and grade equivalencies for the WIAT-4; however, it did not include a description of the student's strengths and weaknesses for each subtest.
5. Based on concerns shared by the complainant related to the student's social/emotional needs, as well as discrepancies between what his teacher reports in the school setting and concerns reported by the complainant in the home, the IEP team determined that additional assessment information was needed to determine the student's initial eligibility for special education. A full educational assessment to include information regarding the student's present levels of performance and academic achievement in reading, writing, and math, as well as social/emotional rating scales completed by his classroom teacher and arts teacher(s), were recommended. Due to concerns shared by the complainant related to the student's expressive language, a speech and language assessment was also recommended. The IEP team determined they would use the information from the assessments, as well as all other available data to determine the student's initial eligibility for Special Education.
6. On July 11, 2023, the HCPS staff conducted the recommended academic assessment. A summary of the assessment states, "The results of this assessment present the profile of a student whose overall academic performance was in the average range when compared to other students his age." "The student is demonstrating age-appropriate skills in reading (phonics, fluency, and comprehension) and math (calculation and problem solving). He is performing below age-based expectations in writing (mechanics and expression)."

7. On July 12, 2023, the HCPS staff completed the speech/language assessment. A summary of the assessment states “the student is a student who presents with borderline to above average language skills. The results of this assessment revealed strengths in semantic classes, multi-level commands and modifiers, creating and repeating back sentences of varying length, formulating sentences with prepositional phrases, negatives, direct and indirect objects, prepositional phrases, and subordinate clauses, and determining comparative semantic relationships. He demonstrated challenges in word opposites.
8. On July 11, 2023, the HCPS conducted a psychological assessment. A summary of the assessment states “Results of the Conners Comprehensive Behavior Rating Scales (CBRS) and the Connors-4, considered in conjunction with information gathered through a review of records, outside assessments, observations, and parent and teacher reports of behavior, indicate that the student does not demonstrate behavior commonly associated with the DSM-5 diagnosis of Attention-Deficit/Hyperactivity Disorder in the school setting. The IEP team should consider this information, as well as the extent to which these behaviors may be impacting the student’s educational performance, when determining if he meets eligibility criteria for the educational disability of Other Health Impairment.”
9. On August 3, 2023, the IEP team met to complete the initial evaluation of the student, determine eligibility under the IDEA, and if appropriate, develop an IEP for the student. The school team shared results from the assessment in the area of academics, speech and language, behaviors. The written summary of the IEP meeting reflects “The results of formal assessment results were considered in conjunction with other available data in order to determine strengths, weaknesses, and present levels of academic and functional performance. Based on the information discussed, the team determined that the student *meets/ does not meet* educational disability criteria as a student with a [REDACTED] and requires specialized instruction to meet his needs. Therefore, the IEP team proposes that the student receive special education services and support provided through an IEP. Services will be provided to address.”
10. The written summary of the IEP meeting also reflects the IEP team determined that the student was not eligible as a student with a disability pursuant to the Individuals with Disabilities Education Act (IDEA) due to the “results of the CBRS and the Connors-4, considered in conjunction with information gathered through a review of records, outside assessments, observations, and parent and teacher reports of behavior, indicate that the student does not demonstrate behavior commonly associated with the DSM-5 diagnosis of Attention-Deficit/Hyperactivity Disorder in the school setting.”
11. On August 3, The IEP team completed an “Evaluation Report and Determination of Initial Eligibility.” The report states the performance in the area of reading phonics, reading fluency, reading comprehension, math calculation, written expression, written language, written language mechanics, social emotional/ behavior, and self- management do not impact the student's academic achievement and/or functional performance.
12. The “Evaluation Report and Determination of Initial Eligibility” form used to help the team make a determination whether the student requires special education services under IDEA was not completed in its entirety as it includes unanswered questions pertaining to the student, his instructional history, and his needs.

13. On August 9, 2023, the IEP team met to review the same formal assessments completed by HCPS and the private assessment provided by the complainant to aid the team in determining present levels of performance and eligibility for special education services. The IEP team used a formal educational, speech language and psychological assessments to determine the student “*does not meet* eligibility criteria as a student with an educational disability in need of specially designed instruction. Therefore, he is not eligible for Special Education.” Given the results of the formal assessments, the team determined there were minimal to no impacts of his outside diagnoses within the school setting in the areas of reading, math, communication, and social emotional/behavioral. Relative weaknesses were found in the area of writing.
14. Due to the student’s diagnoses of Other Specified Attention-Deficit/Hyperactivity Disorder, Other Specified Trauma- and Stressor-Related Disorder, and Social Anxiety Disorder, the IEP team proposed that a referral to the Section 504 team be made to review the new data and to determine eligibility for a Section 504 plan.
15. The IEP team completed an “Evaluation Report and Determination of Initial Eligibility” in its entirety to determine and document that the student does not “require specially designed instruction in order to make adequate progress in school.”
16. There is no documentation of the complainant making a request to inspect and review the student’s educational record, since May 3, 2023.

#### **CONCLUSIONS:**

##### **Allegation #1: PROPER IDENTIFICATION OF STUDENT UNDER IDEA**

In this complaint, the complainant alleges that an IEP did not follow the proper procedure of identifying the student with a disability under IDEA.

Based on Findings of Facts #9 to #15, MSDE finds that due to incomplete and inaccurate documentation, including errors in the prior written notice and eligibility forms completed on August 3, 2023, and the fact that the August 9, 2023, meeting took place beyond the required timelines, the HCPS did not follow the proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since May 3, 2023, in accordance with 34 CFR §§300.111 and 301-.306 and COMAR 13A.05.01.06.

Further, based on the prior written notice provided to the complainant following the August 3, 2023, meeting, it is clear that there were cut and paste statements inserted prior to any decision-making, and that the determinations of the team included in the prior written notice were not individualized, based on the student’s data, accurate, or finalized. Additionally, the prior written notice for the August 9, 2023, meeting was pre-filled with the identical information from the August 3, 2023, meeting prior to that meeting being convened. Therefore, this office does find that a violation occurred with respect to this allegation.

Notwithstanding this finding, the HCPS has provided documentation that it subsequently held a meeting on August 10, 2023, in which it correctly completed the eligibility determination and documentation; thus, no student-specific corrective action is required.

**Allegation #2: PROVISION OF REQUESTED DOCUMENTS**

Based on Findings of Fact #16, MSDE finds the complainant did not request to inspect and review the student's educational record, since May 3, 2023, in accordance with 34 CFR §300.613; thus, there was no request to which the HCPS could respond. Therefore, this office does not find that a violation occurred with respect to this 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>1</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>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

**School-Based**

MSDE requires that HCPS provide professional development to the staff at [REDACTED] School on the requirements and implementation of proper prior written notice. This must be completed before October 31, 2023. Further, HCPS must complete an audit of 5 completed prior written notice notifications each quarter from randomly selected students who have IEP team meetings completed that quarter, and provide a monitoring report to MSDE reflecting that for each decision the IEP team made, the parent was informed of:

- a description of the action proposed or refused;
- an explanation of why the action was proposed or refused;
- a description of each evaluation procedure, assessment, data, or report used to make the decision;
- a description of other options considered and why they were rejected; and
- a description of other factors important to the IEP team's proposal or refusal.

Monitoring reports will be submitted by November 30, 2023, January 31, 2024, March 15, 2023, and June 15, 2024. Full compliance from each submission is required.

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<sup>1</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>2</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.

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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

DC/sj

c: Sean Bulson  
Colleen Sasdelli  
■  
Gerald Loiacono  
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