



Mohammed Choudhury
State Superintendent of Schools

August 19, 2021

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dr. Terri Savage
Executive Director of Special Education
Howard County Public Schools
10901 Clarksville Pike
Columbia, Maryland 21042

RE: [REDACTED]
Reference: #21-121

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 25, 2021, the MSDE received a complaint from [REDACTED] and [REDACTED] hereafter “the complainants,” on behalf of their son, the above-referenced student. In the June 25, 2021 correspondence, the complainants alleged that the Howard County Public School System (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The HCPS did not ensure that a comprehensive evaluation was conducted within required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.
2. The HCPS did not ensure that copies of the *Procedural Safeguards Notice* were provided since February 2021, in accordance with 34 CFR §300.504.
3. The HCPS did not provide Prior Written Notice of the Individualized Education Program (IEP) team’s decisions from the IEP team meeting on February 10, 2021, in accordance with 34 CFR §300.503.

4. The HCPS did not followed proper procedures when responding to a request to amend the student's education record in June 2021, in accordance with 34 CFR §§300.618 - .621.

BACKGROUND:

The student is five (5) years old and attends [REDACTED] He is identified as a student with a speech/language impairment under the IDEA.

ALLEGATION #1 COMPREHENSIVE EVALUATION WITHIN TIMELINES

FINDING OF FACT:

1. The HCPS acknowledges that a comprehensive IDEA evaluation was not conducted within the required timelines, and proposes to reimburse the complainants for the cost of the assessments they obtained privately. HCPS further stated that an IEP team will review and revise the IEP, as appropriate, based on the additional assessment data and determine the compensatory services or other remedy for the delay.

DISCUSSION/CONCLUSIONS:

Based on the Finding of Fact, the MSDE finds that the HCPS did not ensure that a comprehensive IDEA evaluation was conducted within required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06. The MSDE appreciates this HCPS acknowledgement and concurs that there was a violation with respect to this allegation.

ALLEGATION #2 PROCEDURAL SAFEGUARDS NOTICE

FINDINGS OF FACTS:

2. The HCPS acknowledges that there is no documentation that a copy of the *Procedural Safeguards Notice* was provided to the complainants upon receipt of their referral for an IDEA evaluation on January 20, 2021. The HCPS reports they will review this requirement with school staff to ensure that the violation does not recur.
3. There is email documentation that a copy of the *Procedural Safeguards Notice* was provided to the complainants on July 8, 2021, when they filed this State complaint.

DISCUSSION/CONCLUSION:

Based on the Findings of Facts #2 and #3, the MSDE finds that the HCPS did not ensure that the complainants were provided with a copy of the *Procedural Safeguards Notice* at the time of the initial referral for an IDEA evaluation, in accordance with 34 CFR §300.504. Therefore, this office finds a violation with respect to this allegation.

Notwithstanding the violation, based on the same Findings of Facts, the MSDE finds that the violation did not negatively impact the complainants' ability to exercise their rights, and that the HCPS subsequently provided them with a copy when they exercised their right to file a State complaint. Therefore, no student-based corrective action is required to remediate the violation.

ALLEGATION #3 PRIOR WRITTEN NOTICE

FINDING OF FACT:

4. The HCPS acknowledges a violation of the requirement to provide the complainants with Prior Written Notice following the February 10, 2021 IEP team meeting because it was not provided until June 2021. In response, the HCPS reports they will review this requirement with school staff to ensure that the violation does not recur.

DISCUSSION/CONCLUSION

Based on the Finding of Fact #4, the MSDE appreciates the HCPS acknowledgement and concurs that there was a violation with respect to this allegation.

However, based on the same Finding of Fact, the MSDE further finds that the Prior Written Notice has since been provided to the complainants. Therefore, no student-based corrective action is required to remediate the violation.

ALLEGATION #4 RESPONSE TO REQUEST TO AMEND THE STUDENT'S EDUCATION RECORD

FINDINGS OF FACTS:

5. The Prior Written Notice of the June 11, 2021 IEP team meeting reflects that the student's father expressed concerns about the accuracy of the written summary of the decisions made at the February 10, 2021 IEP team meeting. There is documentation that, at the June 11, 2021 meeting, the school staff agreed to amend the document.
6. A review of the Prior Written Notice of the February 10, 2021 IEP team meeting, which is maintained in the student's education record, reflects that the school system amended the document in response to the father's request.

DISCUSSION/CONCLUSION:

Based on Findings of Facts #5 and #6, the MSDE finds that the HCPS followed proper procedures when responding to the request to amend the student's education record, in accordance with 34 CFR §§300.618 - .621. 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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.¹

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770 or by email at Nancy.birenbaum@maryland.gov.

Student Specific

1. The MSDE requires the HCPS to provide documentation that it has reimbursed the complainants for the private assessments conducted at their own expense, upon receipt of documentation by the school system of payment by the complainants to the evaluator.
2. The MSDE requires the HCPS to provide documentation that the IEP team has reviewed and revised the IEP, as appropriate, based on the results of the assessments recommended on June 25, 2021.
3. The MSDE requires the HCPS to provide documentation of the determination of compensatory services or other remedy for the delay in completing a comprehensive evaluation.

School Based

The MSDE also requires the HCPS to provide documentation of the steps taken at [REDACTED] School to ensure the following:

1. Comprehensive IDEA evaluations are completed within required timelines;

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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, the 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.

² The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

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2. Parents are provided with notice of the Procedural Safeguards, as required; and,
3. Parents are provided with Prior Written Notice, as required.

The documentation must include a description of the action that will be taken to monitor the effectiveness of the steps taken.

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 timeframes 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. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Early Intervention
and Special Education Services

c: Michael J. Martirano
Kathy Stump
[REDACTED]
Dori Wilson
Anita Mandis
Diane Eisenstadt
Nancy Birenbaum

