



Mohammed Choudhury
State Superintendent of Schools

August 21, 2023

Ms. Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

Dr. Terri Savage
Executive Director of Special Education
10910 Clarksville Pike
Ellicott City, Maryland 21042

Ms. Allison Myers, Executive Director
Baltimore County Public Schools
Department of Special Education
Jefferson Building, 4th Floor
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #23-266

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 22, 2023, MSDE received a complaint from Ms. Jessica Williams, hereafter, “the complainant”, on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County Public Schools (BCPS) and Howard County Public Schools 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 comparable services upon the student’s transfer to the HCPSS since the start of the 2022-2023 school year, in accordance with 34 CFR §300.323 and COMAR 13a.05.01.09.
2. HCPSS has not ensured that the student has been provided with the adult support as required by the IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.
3. HCPSS did not follow proper procedures when determining the placement in which the student would receive special education instruction since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.114 and .116 and COMAR 13a.05.01.10.

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

4. The HCPSS has not developed an IEP that addresses the student's occupational therapy and handwriting needs since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324.
5. The HCPSS has not ensured that the IEP team reviewed and revised, as appropriate, the IEP to address the student's lack of expected progress toward achieving the IEP goals since October 2022, in accordance with 34 CFR §300.324.
6. The HCPSS did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.320 and .323.
7. The HCPSS did not provide the parent with proper written notice of the IEP team's decisions to remove special education instruction in general education and adult support from the IEP team meeting in October 2022, in accordance with 34 CFR §300.503.
8. The HCPSS did not ensure that parental consent was sought before determining that the student would participate in alternative academic assessments since June 2023, in accordance with Md. Code Ann., Educ. §8-405(f)(2).
9. The HCPSS has not followed proper procedures when conducting a comprehensive reevaluation in all areas of suspected disability, specifically, sensory and fine motor (handwriting) since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.303- .306.
10. The BCPS has not followed proper procedures when conducting a comprehensive reevaluation in all areas of suspected disability, specifically, sensory and fine motor (handwriting) from June 2022 to the start of the 2022-2023 school year, in accordance with 34 CFR §§300.303- .306.
11. The BCPS did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals in June 2022, in accordance with 34 CFR §§300.320 and .323.

BACKGROUND:

The student is eight years old and is identified as a student with Autism under the IDEA. In June 2022, he attended [REDACTED] School, located in Baltimore County. He is currently enrolled at [REDACTED] School, located in Howard County, and has an IEP that requires the provision of specialized instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP, developed by BCPS on May 23, 2022, requires twenty-eight hours and forty-five minutes per week of specialized instruction and one hour per week of speech and language services outside of the general education setting. The IEP further requires adult support in the classroom when implementing the student's feeding protocol and to assist with toileting needs. While in BCPS, the student attended [REDACTED] School.
2. On October 3, 2022, the student enrolled in HCPSS and was assigned to [REDACTED] School.

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

3. On October 7, 2022, the HCPSS IEP team met to review the BCPS IEP and offer comparable services. The HCPSS IEP team determined the student continued to require twenty-eight hours and forty-five minutes per week of specialized instruction, one hour per week of speech and language services outside of the general education setting and specialized transportation. The HCPSS staff considered placement at the local school, regional programs, and the Primary Learner Program. The HCPSS IEP team proposed the student be placed at [REDACTED] School, a separate public day school. The IEP team agreed to continue the IEP team meeting to finalize the IEP and placement decision.
4. On October 28, 2022, the HCPSS IEP team met to continue the October 7, 2023 IEP meeting. The IEP team determined the student requires adult support, as needed, to provide close proximity and frequent “eyes on” the student to ensure safety, remaining on task, and to monitor his impulses. After reviewing the placement options available in HCPSS, the HCPSS staff re-proposed placement of the student at [REDACTED] School to implement the student’s IEP and provide a Free and Appropriate Public Education (FAPE). HCPSS staff shared that the [REDACTED] School has multiple nurses on staff to support the student’s health needs and implement the feeding protocol within the classroom.
5. The student’s IEP dated October 28, 2022, requires an occupational therapy consult twice a month to support the student and classroom staff with “strategies for the development of school related fine motor, visual motor and sensory strategies for purposeful engagement with classroom activities”, the provision of sensory activities and strategies to promote listening, focusing, sustaining and maintaining attention, and calming down if upset.
6. HCPSS staff recommended a “methodology” trial at [REDACTED] School to determine what type of learner the student currently was. The trial was typically 2-3 weeks for each methodology; following the data collection the team would reconvene to determine the best way the student learned. The IEP team agreed the student would begin school at [REDACTED] School on November 7, 2023. On November 7, 2022, the student was transferred to [REDACTED] School.
7. The HCPSS acknowledges that the student did not receive services from October 3, 2022, to November 4, 2022.
8. There is documentation that the student has been provided with the adult support as required by the IEP since November 4, 2022.
9. There is no documentation of progress reported on the student’s annual goals for the first reporting period of school year 2022-2023.
10. The progress reported on the student’s annual goals on January 20, 2023, and March 31, 2023, reflects that the student is making sufficient progress to meet the goals.
11. The progress reported on the student’s annual goal on June 14, 2023, reflects that the skills are newly introduced and progress is not measurable at this time. The student’s annual IEP review was convened on June 6, 2023, and an updated IEP was developed.
12. The HCPSS acknowledges that there is no documentation that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2022- 2023 school year.
13. There is no documentation that adult support was removed from the student’s IEP in October 2022.

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

14. The HCPSS acknowledges that the parent was not provided with proper written notice of the IEP team's decision to remove special education instruction in general education from the student's IEP in October 2022.
15. There is documentation that parental consent was sought at the June 6, 2023, IEP team meeting before determining that the student would participate in alternative academic assessments. However, the HCPSS acknowledges that there is no documentation of signed parental consent for the student to participate in alternate state assessments or academic achievement standards.
16. There is documentation that the student's last re-evaluation occurred in May 2021. The student's projected re-evaluation date is May 21, 2024.
17. There is documentation that the HCPSS IEP team convened on October 7 and 28, 2022, May 18, and June 6, 2023, and discussed the student's needs. The parent nor HCPSS expressed that the student had an identified need in the area of sensory and fine motor that required a re-evaluation.
18. There is documentation that an occupational therapy evaluation was conducted by BCPS on March 18, 2021. The evaluation included pre-writing activities. The evaluator determined that the student would benefit from monthly consult services from an occupational therapist. The IEP developed on May 23, 2022 requires a monthly occupational therapy consult.
19. There is documentation that the BCPS IEP team convened on May 23, 2022, and July 6, 2022, and discussed the student's needs. The parent nor BCPS expressed that the student had an identified need in the area of sensory and fine motor that required a re-evaluation.
20. There is documentation that the student's June 2022 quarterly progress was shared with the parent at the July 6, 2022, IEP team meeting.

CONCLUSIONS:

Allegation #1: PROPER PROCEDURES FOR DETERMINING COMPARABLE SERVICES

Based upon Findings of Facts #1 to #5 and #7, MSDE finds that HCPSS did not follow proper procedures when determining comparable services upon the student's transfer to the HCPSS since the start of the 2022-2023 school year, in accordance with 34 CFR §300.323 and COMAR 13A.05.01.09. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: PROVISION OF ADULT SUPPORT

Based on Findings of Facts #4 and #7, MSDE finds that HCPSS has not ensured that the student has been provided with the adult support as required by the IEP from October 3, 2023 to November 4, 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on Findings of Facts #4, and #8, MSDE finds that HCPSS has ensured that the student has been provided with the adult support as required by the IEP since November 4, 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this allegation.

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

Allegation #3: PROPER PROCEDURES FOR DETERMINING PLACEMENT

Based on Findings of Facts #3, #4, and #6 MSDE finds that HCPSS followed proper procedures when determining the placement in which the student would receive special education instruction since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.114 and .116 and COMAR 13A.05.01.10. Therefore, this office finds that a violation did not occur with respect to this allegation.

Allegation #4: AN IEP THAT ADDRESSES THE STUDENT'S OCCUPATIONAL THERAPY AND HANDWRITING NEEDS

Based on Findings of Fact #5, MSDE finds that HCPSS has developed an IEP that addresses the student's occupational therapy and handwriting needs since October 28, 2022, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation did not occur with respect to this allegation.

Allegation #5: ADDRESSING THE LACK OF EXPECTED PROGRESS

Based on Findings of Facts #10 and #11, MSDE finds that the student did not lack sufficient progress therefore, HCPSS' IEP team was not required to review and revise, as appropriate, the IEP to address the student's lack of expected progress toward achieving the IEP goals since January 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur with respect to this allegation.

Allegation #6: PROVISION OF PROGRESS REPORTS

Based on Findings of Fact #12, MSDE finds that HCPSS did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

The HCPSS must ensure the provision of written information about the student's progress towards their IEP goals. (34 CFR §§300.101, .320, and .323).

Based on the Findings of Fact #9, the MSDE finds that the HCPSS did not ensure that the parent was provided with written information about the student's progress towards achieving the annual IEP goals in the first reporting period of the 2022-2023 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred.

Allegation #7: PROVISION OF PROPER WRITTEN NOTICE OF THE IEP TEAM DECISIONS

Based on Findings of Fact #13, MSDE finds that HCPSS did not remove adult support from the student's IEP; therefore, HCPSS was not required to provide the parent with proper written notice of the IEP team's decisions to remove adult support from the student's IEP at the IEP team meeting in October 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on Findings of Fact #14, MSDE finds that HCPSS did not provide the parent with proper written notice of the IEP team's decisions to remove special education instruction in general education from the IEP team meeting in October 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

Allegation #8: PROPER PROCEDURES FOR OBTAINING PARENTAL CONSENT FOR ALTERNATIVE ACADEMIC ASSESSMENTS

Based on Findings of Fact #15, MSDE finds that HCPSS did not ensure that parental consent was sought before determining that the student would participate in alternate state assessments and alternate academic achievement standards since June 2023, in accordance with Md. Code Ann., Educ. §8-405(f)(2). Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #9: PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT

Based on Findings of Facts #16 and #17, MSDE finds that HCPSS has followed proper procedures when conducting a comprehensive reevaluation in all areas of suspected disability, specifically, sensory and fine motor (handwriting) since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.303- .306. Therefore, this office finds that a violation did not occur with respect to this allegation.

Allegation #10: PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT

Based on Findings of Facts #18 and #19, MSDE finds that BCPS has followed proper procedures when conducting a comprehensive reevaluation in all areas of suspected disability, specifically, sensory and fine motor (handwriting) from June 2022 to the start of the 2022-2023 school year, in accordance with 34 CFR §§300.303- .306. Therefore, this office finds that a violation did not occur with respect to this allegation.

Allegation #11: PROVISION OF PROGRESS REPORTS

Based on Findings of Fact #20, MSDE finds that BCPS did ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals in June 2022, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur 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 non-compliance is corrected in a timely manner.¹ 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be

¹ 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.

² MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student-Specific

MSDE requires the HCPSS to provide documentation by November 1, 2023, of the following actions:

- a. That the IEP team has convened to determine the amount and nature of compensatory services to redress the violation related to comparable services and develop a plan for the provision of those services within one year of the date of this Letter of Findings;
- b. That the complainant has received proper written notice of the IEP team's decision to remove special education instruction in general education and a copy of the student's quarterly progress reports for school year 2022-2023;
- c. That the IEP team has obtained parental consent before determining that the student would participate in alternative academic assessments; and
- d. That the IEP team has convened to determine whether the violations identified in this Letter of Findings regarding proper written notice, provision of written quarterly progress reports, and obtaining parental consent had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The HCPSS must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

MSDE requires the HCPSS to provide documentation by November 1, 2023, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for determining comparable services, and the provision of prior written notice, and that [REDACTED] School properly implements the requirements for obtaining parental consent for alternative assessments and the provision of written progress reports under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance.

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

Ms. Jessica Williams
Dr. Terri Savage
Ms. Allison Myers
August 21, 2023

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/tg

c: Michael J. Martirano
Patricia Gunshore
[REDACTED]
Darryl Williams
Jason Miller
Conya Bailey
Charlene Harris
[REDACTED]
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Nicole Elliott
Paige Bradford
Tracy Givens