



Carey M. Wright, Ed.D.
Interim State Superintendent of Schools

December 21, 2023



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

RE: [REDACTED]
Reference: #24-055

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 October 23, 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 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 ensure that accessible copies of each document the Individualized Education Program (IEP) team planned to discuss at the IEP team meetings on November 22, 2022, and May 25, 2023, were provided at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9) and 13A.05.01.07D(3).
2. The HCPSS did not follow proper procedures when responding to a request to review and inspect the student’s education record since November 9, 2022, in accordance with 34 CFR §300.613.
3. The HCPSS has not ensured that the student has been consistently provided with special education instruction and the use of a communication log, as required by the IEP, since October 23, 2022, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is five years old and is identified as a student with Autism under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of specialized instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP in effect on October 23, 2022, was developed on May 25, 2022. The IEP requires five hours per week of specialized instruction in general education. There is no documentation that the student's IEP requires a home/school communication log.
2. On November 9, 2022, the complainant emailed HCPSS staff requesting to review the student's IEP progress report, baseline data, and any data relating to her IEP. There is no documentation that the student's IEP progress report was provided to the complainant.
3. On November 14, 2022, the HCPSS school staff provided the complainant with a slideshow presentation on the student's first quarter areas of strength and concerns via the student's backpack.
4. On November 15, 2022, the HCPSS school staff provided the complainant with the student's baseline data for her IEP objectives from September 1, 2022, to September 14, 2022. There is no documentation that the student's baseline data for her IEP objectives from October to November 2022 were provided to the complainant.
5. On November 16, 2022, a Notice of IEP Team Meeting was emailed to the complainant for a meeting scheduled on November 22, 2022. The notice reflects that "baseline data and IEP objectives" were previously provided at least five business days prior to the upcoming IEP team meeting.
6. On November 22, 2022, the IEP team convened to conduct an interim review and revision of the IEP. The IEP Team Meeting Report generated after the meeting reflects that the HCPSS staff shared the student's present level of performance in language and literacy goals and updated progress on her IEP objectives. The IEP team reviewed the delivery model of the specialized instruction and discussed the use of her choice board to support her communication needs. The complainant shared her concerns regarding the student's "W's" on the report card, and the HCPSS staff addressed the concerns. The complainant was dissatisfied with the responses from the team and "left the meeting early" therefore, the IEP team did not make "any changes to the IEP." The IEP Team Meeting Report does not reflect that the team considered any documents during the course of the IEP team meeting.
7. On November 29, 2022, HCPSS central office staff emailed the complainant. The email reflects that based upon an earlier telephone conversation, the HCPSS acknowledged the complainant's request for supporting data towards the progress reported for the second IEP goal objective.
8. On December 19, 2022, the student's first quarter progress towards her annual social/emotional goal was provided to the complainant via the student's backpack.
9. On January 9, 2023, the HCPSS central office staff emailed the complainant. The email reflects that the student's raw data from the fall could not be provided, "because it's often written in a way that would be hard for someone else to understand." HCPSS provides this information through the "IEP

summaries of the data.” The complainant was invited to schedule a time to review the student’s cumulative folder, requested to schedule an appointment with the named HCPSS contact, and informed that she could not take pictures of documents but that copies can be provided.

10. On January 11, 2023, the complainant received the raw data for the period from September 1, 2022, to November 18, 2022.
11. On April 26, 2023, the HCPSS staff emailed the complainant a copy of the draft IEP.
12. On May 10, 2023, a Notice of IEP Team Meeting was generated for a meeting scheduled on May 25, 2023. The notice reflects the purpose of the meeting was to conduct an annual review of the IEP and discuss the student’s transition to kindergarten. The notice further reflects that the IEP was previously provided at least five business days prior to the upcoming IEP team meeting.
13. On May 25, 2023, the IEP team convened to conduct an annual review of the IEP and discuss the student’s transition to kindergarten. The IEP Team Meeting Report generated after the meeting reflects that the complainant was provided with a copy of the draft IEP. The complainant provided several proposed changes to the draft IEP prior to the meeting. The IEP team discussed the student’s present levels of performance; the complainant shared that the student is demonstrating a four to five year range across all “environments”. The HCPSS staff shared that the student requires prompting in some areas which fall in the four to five year range. The IEP team determined the student’s skills are “not a full year behind what is expected and specialized instruction is not required.” The IEP team reviewed the supplementary aids, service and programs and the changes proposed by the complainant. The IEP team discussed baseline testing. The complainant requested weekly communication from the student’s teachers and service providers. The HCPSS team discussed the “typical communication between general educators and parents, specifically, that teachers use regular communication logs or notebooks that provide any challenges or notable situations the student has encountered.” The IEP team determined that the general educator and service providers will provide a weekly progress report detailing any struggles the student may encounter throughout the week. A “Home/School communication system” was added as a supplementary aid. The IEP team further determined that the student requires five hours per week in general education to address Social Foundations and thirty minutes per week of speech and language services outside of the general education classroom.
14. There is documentation that the student was provided with specialized instruction from October 23, 2022, to May 25, 2023, as required by the IEP.
15. The student’s IEP developed on May 25, 2023, requires five hours per week of specialized instruction in the general education setting to address Social Foundations and the use of a weekly home/school communication log to be provided by the special or general educator.
16. There is no documentation that the student was provided with specialized instruction from May 26, 2023, to the end of the 2022-2023 school year, as required by the IEP.
17. There is documentation that specialized instruction was provided since the start of the 2023-2024 school year as required by the IEP.
18. There is no documentation that the complainant was provided home/school communication from June 2, 2023, to the end of the 2022-2023 school year as required by the IEP.

19. During 2023- 2024 school year, there is documentation that the complainant was provided weekly home/school communication logs, as required by the IEP, except for the weeks of 8/28, 9/5, 9/11, 10/23, 10/30, 11/6, and 12/11/2023, there is no documentation that the complainant was provided the communication log.
20. On September 12, 2023, the complainant and the HCPSS staff agreed that the home/school communication would stop until October 6, 2023, due to student testing.
21. There is no documentation of a home/school communication for the week of November 20, 2023, as required by the IEP.

DISCUSSION/CONCLUSIONS:

Allegation #1: Provision of IEP Document Five Days Prior To IEP Meeting

A business day is Monday through Friday, except for federal or State holidays, when a public agency is open for business, whether or not students are required to be in attendance for instruction. The first of the five business days begins the day after the parent receives the documents. In this case the student's baseline data for September 2022 was provided to the complainant on November 15, 2022; therefore, the first of the five business days was November 16, 2022.

Based upon the Findings of Facts #3 to #6, MSDE finds that the HCPSS did not ensure that accessible copies of each document the IEP team planned to discuss at the IEP team meetings on November 22, 2022, were provided at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9) and 13A.05.01.07D(3). Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based upon the Findings of Facts #11 to #13, MSDE finds that the HCPSS did ensure that accessible copies of each document the IEP team planned to discuss at the IEP team meetings on May 25, 2023, were provided at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9) and 13A.05.01.07D(3). Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Allegation #2: Access to Student Records

HCPSS was required to respond to the complainant's request for records within 45 days. The LEA also has to provide records if requested prior to an IEP team meeting in order for the parent to prepare for the meeting. 34 CFR §§300.501(a) and .613. In this case, the complainant requested records on November 9, 2022. HCPSS scheduled an IEP team meeting on November 16, 2022, for November 22, 2022. The final document requested by the parent was provided on January 11, 2023.

Based upon the Findings of Facts #2 to #10, MSDE finds that the HCPSS did not follow proper procedures when responding to a request to review and inspect the student's education record since November 9, 2022, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #3: Provision of Special Education Instruction and Home/School Communication

Based upon the Findings of Facts #1 to #14 and #17, MSDE finds that the HCPSS has ensured that the student has been consistently provided with special education instruction as required by the IEP, from October 23, 2022, to May 25, 2023, and since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based upon the Findings of Facts #1, #15, and #16, MSDE finds that the HCPSS has not ensured that the student has been consistently provided with special education instruction as required by the IEP, from May 26, 2023, to the end of the 2022-2023 school year, 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 upon the Findings of Facts #15 and #18 to #21, MSDE finds that the HCPSS has not ensured that the student has been consistently provided with the use of a communication log, as required by the IEP, from June 2, 2023, to the end of the 2022-2023 school year, and since the start of the 2023-2024 school year, 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.

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

Student-Specific

MSDE requires the HCPSS to provide documentation by February 1, 2024, that the school system has convened an IEP team meeting to determine whether the violations identified in this Letter of Findings regarding the provision of education records, IEP team meeting documents, specialized instruction, and

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.

home/school communication 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 one 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 March 1, 2024, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the provision of education records, IEP team meeting documents, specialized instruction, supplementary aids, and services under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring must include a review of at least 15 randomly selected student records to ensure the implementation of each student's supplementary aids and services as required by their IEP, as well as ensuring parents are provided with documents to be discussed at IEP team meetings at least five days prior to the meeting. The monitoring report must be submitted to MSDE on or before March 31, 2024.

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,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/tg

c: Mr. Michael J. Martirano, Superintendent, HCPSS
Ms. Kelly Russo, Coordinator, Special Education Compliance and Dispute Resolution, HCPSS
Ms. Alison Barmat, Branch Chief, Family Support and Due Process, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Nicole Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Ms. Tracy Givens, Complaint Investigator, MSDE