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Interim State Superintendent of Schools

December 22, 2023

Ms. Ronnetta Stanley  
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Loud Voice Together  
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Dr. Terri Savage  
Executive Director of Special Education  
Howard County Public Schools System  
10910 Clarksville Pike  
Ellicott City, Maryland 21042

RE: [REDACTED]  
Reference: #24-058

Dear Parties:

Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 26, 2023, MSDE received a complaint from Ms. Ronnetta Stanley, 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 the Individualized Education Program (IEP) addressed the student’s reading, math, speech, sensory, handwriting, writing language, and social emotional concerns since October 2022, in accordance with 34 CFR §300.324.
2. The HCPSS did not ensure that the student was comprehensively assessed to identify each of the student’s needs since October 2022, in accordance with 34 CFR §§ 300.301-.306 and COMAR 13A.05.01.06.
3. The HCPSS has not ensured that the IEP contains a statement of measurable annual IEP goals in the area of written language, designed to meet the student’s needs that result from his disability, to enable him to be involved in and make progress in the general education curriculum since October 2022, in accordance with 34 CFR §300.320.

4. The HCPSS did not ensure the provision of reports of the student's progress towards achievement of the annual IEP goals was based on the data collection method required by the IEP since October 2022, in accordance with 34 CFR §§300.101 and 323.
5. The HCPSS did not follow proper procedures to ensure that Home and Hospital Teaching (HHT) services were provided to the student when school staff received verification on May 11, 2022, that the student was unable to attend school, in accordance with COMAR 13A.05.01.10. and 13A.03.05.
6. The HCPSS has not developed and implemented a Service Plan that addresses the student's needs, since August 2023, in accordance with 34 CFR §300.138.
7. The HCPSS did not ensure that the IEP team considered the parent information, concerns, and proposals at IEP meetings held since August 2023, in accordance with 34 CFR §300.324.

**BACKGROUND:**

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

**FINDINGS OF FACTS:**

1. On October 14, 2022, the student enrolled at HCPSS. The student's homeschool was [REDACTED] School. HCPSS was provided with a copy of a neuropsychological report (2021); however, the copy did not include all of the pages.
2. On November 14, 2022, the IEP team met to review existing information and determine the need for assessment(s), following a parental referral for special education services. The initial referral information reflects areas of concern in academic performance, attention/concentration, behavior/self-management, organization/study skills, social/emotional, and social/pragmatics. The IEP team agreed to conduct an educational assessment, language assessment, psychological assessment, and an occupational therapy (OT) assessment. The parent provided written consent for HCPSS to complete the recommended assessments on November 14, 2022.
3. On January 13, 2023, the IEP team met to review assessment results and complete the eligibility determination process. The team reviewed the following assessments: Clinical Evaluation of Language Fundamentals - 5th edition (CELF-5), Social Language Development Test - Elementary (SLDT-E: NU), Berry VMI 6th edition, Sensory Profile - 2 (school companion and child), and the Woodcock Johnson IV. The IEP team agreed that a continuation meeting was needed to complete the review of all the assessments.
4. On January 20, 2023, the IEP team met to complete the eligibility determination that was started on January 13, 2023. The team reviewed classroom observations, the educational assessment, the OT assessment, psychological assessment, and speech-language assessment. The IEP team completed the Attention Deficit Hyperactivity Disorder (ADHD) Supplement and the Autism Supplement form. The IEP team determined that the student qualifies for services under the IDEA as a student with Autism as the primary disability, and that he requires special education services.

5. On February 13, 2023, the IEP team met for the purpose of developing the initial IEP. The IEP included present levels of performance in Math, Written Language, Speaking and Listening, Social Interactions, and Social Emotional Learning. The IEP included goals to address: Math, written language, speaking and listening, social interaction skills, study organization skills, and social emotional. The IEP also included Supplementary Aids, Services, Program Modifications and Supports to address written language, sensory, and handwriting needs. The IEP required the following:
- daily – proofreading checklist;
  - daily- chunking of text;
  - as needed - graphic organizers to support writing;
  - as needed - SLP Student Support Service;
  - as needed - Provide manipulatives and/or sensory activities to promote listening and focusing skills; and
  - monthly - Occupational therapist consult.

The IEP required eight hours and thirty minutes of specialized instruction inside the general education setting per week. The IEP required forty minutes of psychological services per month outside of the general education classroom. The IEP required ninety minutes of speech/language related therapy services per month outside of the general education setting. The IEP also required ninety minutes per month of speech/language related therapy services per month inside of the general education setting.

6. Parent provided written consent for initial IEP services on March 9, 2023.
7. On March 31, 2023, IEP progress reports were drafted as it was the end of the third quarter marking period. The description of progress reflects there was not enough data to report on progress due to the recent implementation of the IEP.
8. On May 10, 2023, the HCPSS Physician/Psychologist Statement Transition Plan was completed by the student's private provider to apply for Home and Hospital Teaching. The provider recommended full time home teaching (6 hours of instruction per week in core subject areas).
9. On May 12, 2023, the meeting notes reflects that the IEP team met for the purpose of discussing the student's attendance and lack of special education services due to attendance. The parents expressed that the student shared feeling unsafe at school due to an event on May 2, 2023, and previous events that occurred at other schools. The home and hospital services were approved. The school psychologist shared social interaction and social emotional objectives can be supported through home and hospital instruction. A follow up thirty-day home and hospital meeting review was scheduled with the parents.
10. There is no documentation that the student's IEP was amended to reflect HHT services on May 12, 2023. There is no documentation in the PWN from the May 12, 2023, IEP team meeting that the team discussed what services the student would receive while on HHT.
11. The IEP progress report developed on June 14, 2023, reflects the student was on HHT, and as a result the IEP team did not have data to report on student progress.

12. On August 27, 2023, the parent informed the HCPSS that the student will not be returning to [REDACTED] School and notification has been submitted to HCPSS. The parent requested a meeting for the purpose of developing a Service Plan and implementation of supports for the student.
13. On August 31, 2023, a meeting notice was developed for the purpose of meeting with the family on September 9, 2023, to develop the Service Plan. Per the parent's request, the meeting was rescheduled.
14. A meeting notice was developed for the purpose of meeting with the family on September 12, 2023. The meeting was canceled since the speech/language pathologist was not able to participate.
15. On September 26, 2023, the IEP team met for the purpose of determining eligibility for a Service Plan. HCPSS reviewed the present levels, and recommended service hours of four hours and fifteen minutes per week to address written language and math goals, at [REDACTED] School in a supported classroom. HCPSS informed the parents that the student is allowed OT consultation as part of his service plan. The parent was provided with contact information for DSE Resource and Facilitator for additional questions. The prior written notice from the meeting reflects that all areas of concerns and questions asked by the complainant and parents were answered by HCPSS.
16. On September 27, 2023, HCPSS emailed the parents in response to questions from the meeting on September 26, 2023. HCPSS informed the parents that a Service Plan must be implemented in the student's home school. HCPSS informed the parents that Math and English Language Arts (ELA) supported classes are available daily from 12:30pm-1:29pm, or Math at 9:29-10:19am and ELA at 2:35-3:25pm.
17. On October 1, 2023, the parent informed HCPSS that they are not agreeing to send the student back to that school. They are open to the student receiving services either virtually, or in a different school through a safety or administrative transfer. Additionally, the parents have concerns with the development of the IEP. The parents are concerned that the IEP team did not consider the "private neuropsychological evaluation and it did not address all of his unique needs."
18. On October 2, 2023, the HCPSS informed the parent that in order for the student to be considered for reassignment, the student must first be enrolled in HCPSS. The advocate confirmed receipt of the information.
19. The IEP reflects the following written language goal: "Given a writing task, opportunity to brainstorm and a graphic organizer and no more than two prompts, [the student] will develop a topic and will present similar information grouped appropriately that includes supporting evidence." The goal was to be measured quarterly by informal measures, work samples and teacher reports.

#### **DISCUSSION/CONCLUSIONS:**

**Allegation #1:                    Development of an IEP addressing student's reading, math, speech, sensory, handwriting, writing language, and social emotional needs**

In developing each child's IEP, the IEP team must consider the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. 34 CFR §300.324.

In this case the complainant alleges that the HCPSS should have considered data and recommendations presented in the independent report; however, the report was incomplete, and the team could not draw valid conclusions from what was provided.

Based on Findings of Facts #1 through #5 and #9, MSDE finds that the HCPSS has ensured that the IEP addressed the student's reading, math, speech, sensory, handwriting, writing language, and social emotional concerns since October 2022, in accordance with 34 CFR §300.324. The copy of the report from the private provider did not include all of the pages. As a result, the team conducted their own assessments and utilized data from updated and current assessments for the purpose of developing the IEP. Therefore, this office finds that a violation did not occur with respect to this allegation.

**Allegation #2: Identification of the student's need**

The complainant did not specify in what area she believes the IEP team failed to evaluate the student's suspected needs. However, there is no evidence to demonstrate that the student had other areas of suspected disability beyond those areas addressed by the ordered assessments.

Based on Findings of Facts #1 through #5, MSDE finds that the HCPSS has ensured that the student was comprehensively assessed to identify each of the student's needs since October 2022, in accordance with 34 CFR §§ 300.301-.306 and COMAR 13A.05.01.06. Therefore, this office finds that a violation did not occur with respect to this allegation.

**Allegation #3: Measurable written language goal**

The complainant alleges that although the student has a written language goal, it is difficult to understand the conditions of the goal and how progress will be measured.

Based on Findings of Fact #19, MSDE finds that the IEP does not contain a clear statement of a measurable annual IEP goal in the area of written language, designed to meet the student's needs that result from his disability, to enable him to be involved in and make progress in the general education since October 2022, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation occurred with respect to this aspect allegation.

**Allegation #4: Progress reports based on data collection method required by the IEP**

Based on the Finding of Facts #2 #7, #9, and #11, MSDE finds that the student did not have an IEP in effect when he enrolled in HCPSS. Although the IEP was developed on February 13, 2023, written consent was not provided until March 9, 2023; therefore, MSDE concurs that there may have been insufficient data on March 31, 2023, to provide comprehensive progress reports. However, the HHT instructors were responsible for implementing the IEP and tracking progress on the goals. In this case, the student was receiving HHT services from May 2023 through the end of the school year. The student was not provided with progress reports during this time period. Therefore, this office finds that a violation did occur with respect to this allegation, in accordance with 34 CFR §§300.101 and 323.

**Allegation #5: Proper procedures to initiate Home and Hospital Teaching**

The HCPSS HHT process requires completing an application, consulting with an approved healthcare provider, returning an application to the school, and receiving the HHT program information/instruction. For students with an IEP, the IEP team must meet to determine what services the student will receive while they are on

HHT. The student's IEP must be amended to reflect those services. In this case, the IEP team did not document the services the student was to be provided while receiving Home and Hospital Teaching services by amending the IEP.

Based on the Finding of Facts #8, and #11, MSDE finds that the HCPSS did not follow proper procedures to ensure that HHT services were provided to the student when school staff received verification from on May 11, 2022, that the student was unable to attend school, in accordance with COMAR 13A.05.01.10 and 13A.03.05. Therefore, this office finds that a violation occurred with respect to this allegation.

**Allegation #6: Implementation of Service Plan**

The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the special education teacher qualification requirements. Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools (34 CFR §300.138).

The HCPSS Service Plan memo states that "as a courtesy, HCPSS extends the offer of a Service Plan to students enrolled in a program of home instruction (home schooled) who would be eligible for special education and related services." The Service Plan allows for up to one hour/period per day for instruction in reading, written language, and mathematics, direct speech only services to address articulation, voice, and fluency up to one hour per week, and a one time OT consultation for eligible students.

Based on the Finding of Fact #15, MSDE finds that the HCPSS has developed a Service Plan that addresses the student's needs, since August 2023, in accordance with 34 CFR §300.138. Therefore, this office finds that a violation did not occur with respect to this allegation.

Based on the Finding of Facts #12, #15 and #17, MSDE finds that the HCPSS has offered to implement the Service Plan. The student has not been made available for the HCPSS to provide services that address the student's needs, since August 2023, in accordance with 34 CFR §300.138. Therefore, this office finds that a violation did not occur with respect to this allegation.

**Allegation #7: Consider parent input and concerns since August 2023**

Based on the Finding of Facts #15 through #18, MSDE finds that HCPSS has ensured that the IEP team considered the parent's private evaluation information (at least the pages available to the team), concerns, and proposals at IEP meetings held since August 2023, in accordance with 34 CFR §300.324. 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 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).

### **Student-Specific**

MSDE requires the HCPSS to provide documentation by March 1, 2024, that the IEP team has taken the following action:

- a. Convened an IEP team meeting to review and revise the student's written language goal and ensure that the student's goal is a clear and measurable statement designed to meet the student's needs resulting from his disability, and that enable him to be involved in and make progress in the general education curriculum; and
- b. Convened an IEP team meeting to determine the impact of not amending the IEP to reflect HHT services and not providing IEP progress reports while the student was on HHT.

The HCPSS must also ensure that the IEP team considers the difference between the student's present and expected levels of performance when determining the services needed to remediate the violations.

The HCPSS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain 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 15, 2024, of the steps taken to ensure that the violation does not recur at [REDACTED] School.

- a. Determine if there are similarly situated students enrolled at [REDACTED] School receiving service through HHT provide MSDE with documentation of completed progress reports; and
- b. Provide MSDE with documentation of professional development on HHT documentation of IEP progress, and amendment of the IEP for students servicing HHT services.

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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.

**Systemic**

MSDE requires the HCPSS to provide documentation by March 15, 2024, of the steps taken to ensure that the violation does not recur at HCPSS.

- a. Provide MSDE with documentation of the written practice to ensure the documentation of progress reports for students receiving HHT services.

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/ra

- c: Dr. Michael Martirano, Superintendent, HCPSS  
Ms. Kelly Russo, Coordinator of Special Education Compliance and Dispute Resolution, HCPSS  
[REDACTED]  
Ms. Alison Barmat, Branch Chief, Family Dispute Resolution, MSDE  
Ms. Diane Eisenstadt, Compliance Specialist, MSDE  
Ms. Rabiātu Akinlolu, Compliance Investigator, MSDE  
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE  
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE