

January 12, 2024

Ms. Ronnetta Stanley  
Loud Voices Together  
P.O. Box 1178  
Temple Hills, Maryland 20757

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

RE: [REDACTED]  
Reference: #24-072

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.

**ALLEGATION:**

On November 14, 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 allegation:

1. The HCPSS did not follow proper procedures when conducting a reevaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.300, and .303 - .306 and COMAR 13A.05.01.06.

**BACKGROUND:**

The student is sixteen years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. He attends [REDACTED] School and has an Individualized Education Program (IEP) that requires the provision of specialized instruction and related services.

**FINDINGS OF FACTS:**

1. On September 19, 2023, the IEP team convened to conduct a reevaluation meeting. The IEP Team Meeting Report generated after the meeting reflects that the IEP team reviewed current progress, Woodcock-Johnson Test of Achievement (10/15/2020), WISC-V Evaluations (5/17/2018, and 11/10/2020), Neuropsychological Evaluation (6/30/2021), occupational therapy assessment

(2/2/2021), BRIEF-2 (5/17/2018), Conners 3 Rating Scales (11/10/2020), student input, parent input, and educational needs of the student. The IEP team determined that the student continued to be a student with a disability that requires special education and related services. The IEP team further determined that additional data was needed to determine eligibility. The complainant requested updated assessments to determine the student's academic abilities in math, reading, and writing. The complainant shared that the parents are pursuing a private psychological assessment. The HCPSS staff explained that HCPSS does not test in isolation and that a psychological assessment would be recommended in addition to the educational evaluation. The complainant disagreed with the psychological assessment being completed. The HCPSS staff further explained that if "an independent assessment is presented to the school-based team in the future and the team has questions, other assessments could be recommended at that time." The IEP team proposed a psychological and educational assessment and agreed to obtain consent.

2. On October 10, 2023, the parent provided consent for an educational assessment to include reading skills, comprehension and fluency, math calculation and reasoning, and written expression. There is no documentation that an educational assessment has been conducted.
3. On October 31, 2023, the IEP team convened to complete the reevaluation. The IEP Team Meeting Report generated after the meeting reflects that the IEP team reviewed the student's progress towards IEP goals, academic progress, teacher observation (10/10/2023), and made reference to the assessment data reviewed at the September 19, 2023, meeting. The IEP team determined the student continues to be a student with a disability requiring special education and related services. The IEP team further determined that no additional data was needed to determine eligibility. The complainant shared that the parents have questions about the student's current academic performance and that consent was provided for an educational assessment. The parent shared the student is on a "wait list" for a private neuropsychological assessment. The HCPSS staff explained "that neither ADHD, nor Specific Learning Disability can be determined by an educational assessment alone, but that the school-based team looks forward to reviewing an outside psychological assessment when it is available. At that time, if it is determined that no educational assessment was included, the HCPSS team will complete an educational assessment." The HCPSS staff determined that "today's date would be used as the re-evaluation date." The complainant disagreed with the reevaluation date and the refusal to conduct the parent requested educational evaluation.

### **CONCLUSION:**

Pursuant to 34 CFR §300.303, a public agency must reevaluate a student with a disability if: (1) it determines that the educational or related services needs of the student warrants it; or (2) if the student's parent or teacher requests it. In this case, the IEP team met on September 19, 2023, and proposed conducting academic and psychological assessments to determine eligibility. The complainant requested updated assessments, and the parent provided consent to conduct the academic assessment. However, the IEP team later decided to not to conduct the educational assessment because the school-based team first required the private psychoeducational evaluation from the parent and supposedly was unable to make an eligibility determination based on educational assessments in isolation.

Whether or not the parent may seek a private evaluation does not limit the public agency's responsibility to reevaluate a student. HCPSS determined that it needed additional information to plan for the student, and it secured consent from the parent to conduct the assessment. If, when the team met to review the academic assessment and other relevant information to complete the reevaluation process, there was insufficient information to make certain decisions, then the IEP team should document it in the prior written notice.

Based upon the Findings of Facts #1 to #3, MSDE finds that the HCPSS did not follow proper procedures when conducting a reevaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.300, and .303 - .306 and COMAR 13A.05.01.06. 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 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.<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 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 15, 2024, that the school system has conducted an academic assessment, convened an IEP team meeting to review the assessment and other relevant information to complete the reevaluation process, and determine if the delay in providing the assessment 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 prior 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 15, 2024, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the reevaluation of a student under the IDEA and COMAR. 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 review for timely completion of the reevaluation. The monitoring report must be submitted to MSDE on or before April 1, 2024.

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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.

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, Special Education Coordinator, HCPSS  
[REDACTED]  
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Ms. Diane Eisenstadt, Compliance Specialist, MSDE  
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE  
Ms. Tracy Givens, Complaint Investigator, MSDE