

February 2, 2024

Redacted<sup>1</sup>

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

RE: [REDACTED]  
Reference: #24-093

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 November 3, 2023, MSDE received a complaint from 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 has not ensured that the student's progress towards obtaining annual Individual Educational Program (IEP) goals were measured in the manner required by their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323.
2. The HCPSS has not ensured that the student was provided with the support of a dedicated adult assistant, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323.
3. The HCPSS has not ensured that the student was provided with their communication device, as required by their IEP, which made it difficult for him to communicate, access instruction, or achieve his goals since July 2023, in accordance with 34 CFR §300.324 and 34 CFR §§300.101 and .323.
4. The HCPSS has not ensured that the student was provided with a scribe, as required by their IEP since July 2023, in accordance with 34 CFR §§300.101 and .323.

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<sup>1</sup> At the complainant's request, their name and contact information will not be shared with the local education agency.

## **BACKGROUND:**

The student is thirteen years old and is identified as a student with Autism under the IDEA. He is placed by the HCPSS at [REDACTED], a nonpublic special education program and has an IEP that requires the provision of special education services.

## **FINDINGS OF FACTS:**

1. The student's IEP in effect in July 2023, was developed on February 23, 2023. The IEP requires adult support throughout his entire day, a "response human scribe" for ELA/Literacy, math, science, government as an instructional and assessment accommodation. There is no documentation that the student requires the use of a communication device.

The IEP further requires the reporting of progress towards the achievement of annual goals quarterly and in writing to the parent. The evaluation method of the annual academic reading foundational skills requires the use of work samples and observations with 80% accuracy, reading comprehension requires the use of work samples and informal assessments with 80% accuracy, math calculation requires the use of work samples and observations with 70% accuracy. The evaluation method of the annual written language expression goal requires the use of writing samples with 80% accuracy. The evaluation method of the annual behavioral goal requires the use of an observation record with accuracy in 5 out of 10 trials, for the annual behavior self management goal requires the use of behavior data collection in an average of 80% intervals. The evaluation method of the annual speech and language receptive language goals requires the use of data collection, and observation record with 60% accuracy or 3 out of 5 trials, and the annual speech and language expressive language goal requires the use of observation record and clinical data with 60% accuracy or 3 out of 5 opportunities.

2. The progress reported on the student's annual social emotional/behavioral, written language expression, and reading comprehension goals in October 2023 reflects that the student did not make sufficient progress to meet the goal. The student's progress was reported using the evaluation method required by the IEP. The IEP team met on December 7, 2023 to address the student's lack of progress.
3. The progress reported on the student's annual reading foundational skills, and math calculation goals in October 2023 reflects that the student's progress was reported using the evaluation method required by the IEP.
4. The progress reported on the student's annual speech and language expressive goal in October 2023 reflects that the student is "making sufficient progress to meet the goal, Obj 1) not sufficient data to report Obj 2) not addressed during this quarter Obj 3) 1 out of 5 opportunities given two verbal prompts." The student's progress was not reported using the evaluation method required by the IEP.
5. The progress reported on the student's annual speech and language receptive language goal in October 2023 reflects that the student is "making sufficient progress to meet the goal, Obj 1) not addressed this quarter Obj 2) not addressed this quarter Obj 3) 55% opportunities with 2 verbal and tactile prompts Obj 4) 55% opportunities given 2 verbal prompts." The student's progress was not reported using the evaluation method required by the IEP.

6. The progress reported on the student's annual self management goal in October 2023 reflects that the student is making sufficient progress to meet the goal. The actual results achieved: "Obj 1: (Achieved) given adult support and positive reinforcement, [the student] will increase compliance with this school program by remaining awake in an average of 80% of intervals. Obj 2: (Not Achieved) given adult support and positive reinforcement, [the student] will increase compliance with the school program by completing work as intended in an average of 80% intervals. Obj 3: (Not Achieved) given adult support and positive reinforcement, [the student] will increase compliance with the school program by using appropriate language in an average of 80% intervals. Obj 4: (Not Achieved) given adult support and positive reinforcement, [the student] will increase compliance with the school program by complying with staff directives in an average of 80% intervals." The student's progress was not reported using the evaluation method required by the IEP.
7. The progress reported on the student's annual speech and language expressive, speech and language receptive, reading comprehension, self management, written language expression, math calculation goals, and reading foundational skills, in January 2024, reflects that the student's progress was reported using the evaluation method required by the IEP.
8. The progress reported on the student's annual social emotional/behavioral goal reported in January 2024 reflects that the student is making sufficient progress to meet the goal. The actual results achieved in 6 out of 10 trials. "Objective 1: Not achieved: Juan was able to demonstrate an overall understanding of how Zones of Regulation by correctly identifying his emotion, and what zone he is in 18 out of 34 trials. Objective 2: Not achieved: Juan was able to identify and practice 3-5 coping skills within 3-5 prompts in 14 out of 20 trials. Objective 3: Not achieved: Juan was able to implement learned coping skills within 3-5 prompts in greater than 6 out 10 trials measured by clinical observation and classroom reports." The student's progress was not reported using the evaluation method required by the IEP.
9. There is documentation that the student was provided with the support of a dedicated adult assistant, as required by his IEP, since July 2023.
10. There is documentation that the student has dedicated adult support to serve as a scribe when necessary. The student's work samples reflect the student is able to write his own responses with accommodations and support.

## **CONCLUSION:**

### **Allegation #1:**

### **Reporting of Progress**

Based upon the Findings of Facts #1, #3, and #7, MSDE finds that the HCPSS has ensured that the student's progress towards obtaining the reading foundational skills, reading comprehension, written language expression, and math calculation annual IEP goals were measured in the manner required by their IEP, since July 2023, and the social emotional/behavioral goal in October 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon the Findings of Facts #1 and #4 to #6, MSDE finds that the HCPSS has not ensured that the student's progress towards obtaining the speech and language expressive and receptive, behavior self-management annual IEP goals were measured in the manner required by their IEP, in October 2023, in

accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based upon the Findings of Facts #1 and #7, MSDE finds that the HCPSS has ensured that the student's progress towards obtaining the self management, and speech and language expressive and receptive annual IEP goals were measured in the manner required by the IEP, in January 2024, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon the Findings of Facts #1 and #8, MSDE finds that the HCPSS has not ensured that the student's progress towards obtaining the social emotional/behavioral annual IEP goal were measured in the manner required by their IEP, in January 2024, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

**Allegation #2: Provision of Adult Support**

Based upon the Findings of Facts #1 and #9, MSDE finds that the HCPSS has ensured that the student was provided with the support of a dedicated adult assistant, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

**Allegation #3: Provision of a Communication Device**

Based upon the Findings of Fact #1, MSDE finds that the student's IEP does not require the provision of a communication device. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

**Allegation #4: Provision of a Scribe**

Based upon the Findings of Facts #1 to #10, MSDE finds that the HCPSS has ensured that the student was provided with a scribe, as required by their IEP since July 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur 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>2</sup> This office

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<sup>2</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.

will follow up with the public agency to ensure that it completes the required actions consistent with the 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. Sarah Denney, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Denney can be reached at (410) 767-7770 or by email at [sarah.denney@maryland.gov](mailto:sarah.denney@maryland.gov).

### **Student-Specific**

MSDE requires the HCPSS to provide documentation by April 1, 2024, that the school system has convened an IEP team meeting to determine if the failure to properly report the student's progress 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 April 1, 2024, of the steps it has taken to ensure that [REDACTED] staff properly implements the requirements for the reporting of progress towards the student's annual IEP goals are measured in the manner required by their IEP 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 review for appropriate progress reporting. The monitoring report must be submitted to MSDE on or before April 1, 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

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<sup>3</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.

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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. Bill Barnes, Acting Superintendent HCPSS  
Ms. Kelly Russo, Coordinator, Special Education Compliance and Dispute Resolution HCPSS  
Ms. Alison Barbat, Branch Chief, Family Support and Due Process, MSDE  
Ms. Sarah Denney, Compliance Specialist, MSDE  
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Ms. Tracy Givens, Complaint Investigator, MSDE