

January 31, 2024

Redacted¹

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

RE: [REDACTED]
Reference: #24-094

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 Individualized 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.

BACKGROUND:

The student is twenty years old and is identified as a student with an Intellectual Disability 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.

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

FINDINGS OF FACTS:

1. The student's IEP in effect in July 2023, was developed on April 19, 2023. The IEP requires twenty-eight and half hours per week of specialized instruction outside of the general education setting, thirty minutes per week of occupational therapy outside of the general education setting, and one hour per week of speech and language services outside of the general education setting. There is no documentation that the student requires the support of a dedicated adult assistant.

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 math calculation, reading vocabulary, reading comprehension, written language mechanics, math problem solving, social interaction skills, community-based instructions, and visual motor goals require the use of an observation record in 3 out of 5 trials. The evaluation method of the annual speech and language articulation, and speech and language pragmatics goals require the use of an observation record and data collection in 3 out of 5 trials. The evaluation method of the annual self-management goal requires the use of classroom data sheets with a 50% decrease.

2. The progress reported on the student's annual math calculation and problem-solving 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 vocabulary, written language mechanics, social interaction skills, community-based instruction, visual motor, reading comprehension, and self-management 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 articulation goal in October 2023 reflects that the student is "making sufficient progress to meet the goal, 2 out of 4 trials: 10/2023 Obj 1) $\frac{3}{5}$ with 2 verbal cues Obj 2) $\frac{2}{4}$ with 1 verbal cue." 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 pragmatics goal in October 2023 reflects that the student is "making sufficient progress to meet the goal, 10/2023 Obj 1) $\frac{3}{5}$ with 1 verbal prompt increased accuracy given more prompts Obj 2) $\frac{3}{4}$ trials with 1 one 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 math calculation and problem solving, self-management, written language mechanics, community-based instruction, social interaction skills, visual motor, reading vocabulary, reading comprehension, speech and language articulation and pragmatics goals in January 2024, reflects that the student's progress was reported using the evaluation method required by the IEP.
7. There is documentation that the student was not provided speech and language services from June 5, 2023, to August 29, 2023; September 20, 2023; January 11, 2024; and January 17, 2024, as required by the student's IEP.

CONCLUSIONS:

Allegation #1: Report of Progress

Based upon the Findings of Facts #1, #3, and #6, MSDE finds that the HCPSS has ensured that the student's progress towards obtaining the annual math calculation, reading vocabulary, reading comprehension, written language mechanics, math problem solving, social interaction skills, community based instructions, visual motor, and self-management goals were measured in the manner required by their IEP, since July 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, #4, and #5, MSDE finds that the HCPSS has not ensured that the student's progress towards obtaining the annual speech and language articulation and pragmatics 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 #6, MSDE finds that the HCPSS has ensured that the student's progress towards obtaining the annual speech and language articulation and pragmatics goals 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 did not occur with respect to this aspect of the allegation.

Allegation #2: Provision of Adult Support

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

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP at the beginning of each school year (34 CFR §300.101 and .323).

Based upon the Finding of Fact #7, MSDE finds that the HCPSS did not ensure that the student was consistently provided speech and language services as required by the IEP since June 2023, in accordance with 34 CFR §300.101 and .323.

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.² 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 Sarah Denney, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Ms. Denney can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

Student-Specific

MSDE requires the HCPSS to provide documentation by March 15, 2024, of the following actions:

- Provide the student with speech and language services in accordance with his IEP;
- Convene an IEP team meeting to determine the compensatory services or other remedy to address the lack of provision of speech and language services; and
- 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 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 [REDACTED] staff properly implements the requirements for provision of related services and proper 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 provision of speech/language services and proper reporting of progress. The monitoring report must be submitted to MSDE on or before April 1, 2024.

² 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.

³ 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. Bill Barnes, Acting 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. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Programmatic Support and Technical Assistance, MSDE
Ms. Tracy Givens, Complaint Investigator, MSDE
Ms. Sarah Denney, Compliance Specialist, MSDE