

May 3, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

Ms. Colleen Sasdelli  
Director of Special Education  
Harford County Public Schools  
102 South Hickory Avenue  
Bel Air, Maryland 21014

RE: [REDACTED]  
Reference: #24-159

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 March 7, 2024, MSDE received a complaint from Mr. [REDACTED], hereafter, “the complainant,” on behalf of his daughter, the above-referenced student. In that correspondence, the complainant alleged that the Harford County Public Schools (HCPS) 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 HCPS has not followed proper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services since March 20, 2023, in accordance with 34 CFR §§300.301-.311 and COMAR 13A.05.01.06.
2. The HCPS has not implemented an Individualized Education Program (IEP) that addresses the student’s identified needs since the start of the 2023- 2024 school year, in accordance with 34 CFR §§300.101 and .324.
3. The HCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the March 4, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

The student is 11 years old and is identified as a student with a Specific Learning Disability (SLD), specifically Dyslexia, Dysgraphia, and Dyscalculia, under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATION #1: PROPER PROCEDURES WHEN IDENTIFYING AND EVALUATING A STUDENT**

**FINDINGS OF FACTS:**

1. On March 6, 2023, the complainant emailed the HCPS staff requesting a meeting to consider the student's eligibility for specialized instruction under the IDEA.
2. On March 20, 2023, the IEP team convened to review a private evaluation provided by the complainant and determine the need for additional evaluations. The Prior Written Notice (PWN) generated following this meeting reflects that the IEP team reviewed the private evaluation, which was "a comprehensive evaluation to determine her current cognitive, emotional, and executive functioning," additional data from Fountas and Pinnell Leveled Literacy Running Record System, classroom performance, and reading and math inventories. The IEP team determined that additional assessments were not required, and the student's needs could be met with accommodations provided by a 504 Plan. There is no documentation showing that the IEP team determined whether the student had a qualifying disability under IDEA.
3. On March 29, 2023, the HCPS developed the student's 504 Plan. The Plan included accommodations to address the student's "Attention-Deficit/Hyperactivity Disorder (ADHD), SLD in reading (dyslexia), and SLD in writing."
4. On May 22, 2023, the complainant emailed the HCPS staff requesting the student's scheduled 504 meeting be changed to include the consideration for an IEP.
5. On June 12, 2023, the IEP team convened to address the complainant's request to consider eligibility for special education services. The PWN generated following the IEP team meeting reflects that the IEP team reviewed existing data and determined the need for additional assessments in the areas of psychological, speech/language: receptive and expressive language, and educational: reading, writing, and math. The IEP team reconsidered the private evaluation provided by the complainant for the March 20, 2023, IEP team meeting. The PWN further reflects that the complainant did not agree to additional academic assessments and rating scales "because those have already been completed." The complainant agreed to a speech and language assessment in the expressive and receptive language areas. The school-based team explained that the "[private evaluation] lacks the data required to write an IEP and determine the presence of an educational disability based on the grade-level curriculum she has been exposed to." The PWN further reflects that the IEP team agreed to continued accommodations through the student's 504 Plan developed on March 29, 2023.
6. On July 19, 2023, the IEP team convened to review the parent's request for an IEP team meeting, review current formal and informal assessment data, and determine the presence of an "educational disability requiring Specially Designed Instruction." The PWN generated following the IEP team meeting reflects that the complainant "expressed concerns about their ability to effectively participate in the prior 6/12/23 IEP team meeting, as they felt that the team may have predetermined proposed actions. In response to these concerns, a new IEP team was formed, with the agreement of the Local Education Agency (HCPS)". In addition, the PWN reflects that the IEP team determined the student eligible for an IEP.

The PWN reflects that the “IEP team considered data from the following sources as a basis for all proposals: Fountas and Pinnell Leveled Literacy Running Record System, Reading Inventory benchmark, Math Inventory Benchmark, Curriculum-based Writing Assessment, Writing rubrics, classroom work samples, math unit assessment scores, attendance, reported developmental history, Wechsler Individual Achievement Test Fourth Edition, Wechsler Intelligence Scale for Children Fifth Edition, Behavior Assessment Scale for Children Third Edition, Behavior Rating of Executive Functioning Second Edition, Clinical Diagnoses of Attention Deficit Hyperactive Disorder Combined Type, Specific Learning Disorder of Reading and Writing, observation of [the student's] writing instruction, observation of [the student's] math instruction, information from private tutor and parent on math performance, report card comments and grades, anecdotal remarks of performance on the Maryland College and Career Readiness standards of written language.”

The PWN further reflects that the “6/12/23 IEP team requested formal evaluations in speech language, social emotional behavioral, reading, written language, and mathematics. The team revised the assessment plan to no longer include behavioral rating scales to determine the educational impact of [the student’s] ADHD.” The team agreed that sufficient evidence existed to determine her needs in the eligible area of self-management. Supports would be included in the proposed draft to address the learning impact of the student’s ADHD. The team agreed that a language evaluation is required to rule in or out the impact of receptive and expressive language. The complainants provided written consent for assessments at this IEP team meeting.

7. On August 10, 2023, the IEP team convened to review assessments and evaluations agreed upon at the July 19, 2023, IEP team meeting. The PWN generated following the IEP team meeting reflects that the IEP team reviewed the HCPS Educational Assessment Report completed on August 1, 2023, and the speech and language evaluation. The PWN further reflects that the “IEP team would draft an IEP for [the student], the areas of impact would be reading fluency, writing mechanics, math calculation, self-management, and receptive/expressive language.”
8. On August 17, 2023, the IEP team convened to review the student’s draft IEP. The PWN generated following this meeting reflects that the IEP team considered and agreed the student’s least restrictive environment (LRE) was “the home school with special education services inside the general education classroom, a co-taught general education classroom, and small group instruction outside the general.” The parent consented to the initial IEP.
9. On March 4, 2024, the IEP team convened to review and revise the student’s IEP. The PWN generated following the IEP team meeting reflects that the IEP team reviewed assessments and classroom data. The IEP team agreed to the addition of the following supplementary aids and accommodations:
  - Supplementary Aids:
    - monitor for understanding/ clarification of sentences
    - folder for communication between home and school
    - organizational aids
    - strategies for independently chunking materials
    - clarify word clutter
    - opportunities for oral reading check-in and practice

- Accommodations:
  - highlighter tool
  - extended time
  - small group
  - specify accommodations across all content areas

The PWN further reflects that the IEP team will reconvene on April 15, 2024, to give the parent time to review the shared data.

### **DISCUSSIONS/CONCLUSIONS:**

The public agency is responsible for conducting a full and individual initial evaluation, within 60 days of receiving parental consent (34 CFR §300.301), that includes using a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability (34 CFR §300.304). Upon completion of the assessments and other evaluation measures, a group of qualified professionals and the parent of the child determine whether the child is a child with a disability (34 CFR §300.306). In this case, there is no indication that the March 20, 2023, IEP team determined whether the student was a child with a disability.

Based on Findings of Fact #1 and #9, the HCPS did not follow proper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services on March 20, 2023, in accordance with 34 CFR §§300.301-.311 and COMAR 13A.05.01.06. Therefore, this office finds a violation occurred concerning this aspect of the allegation.

### **ALLEGATION #2: IMPLEMENTED AN IEP THAT ADDRESSES THE STUDENT'S IDENTIFIED NEEDS**

#### **FINDINGS OF FACTS:**

10. The IEP in effect at the start of the 2023 -2024 school year, was developed on August 17, 2023. It reflects that the student has identified needs in reading fluency, reading comprehension, math calculation, written language content, written language mechanics, written language expression, speech and language: receptive language, and self-management.

The IEP's Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflects areas of impact in:

- Reading fluency: The student's current instructional grade level for reading fluency is "end of second grade;"
- Reading comprehension: The student's current instructional grade level for reading comprehension is "beginning of third grade;"
- Math calculation: The student's current instructional grade level for math calculation is "middle of third grade;"

- Written language content: The student's current instructional grade level for written language content is "middle of third grade;"
- Written language mechanics: The student's current instructional grade level for written language mechanics is "end of second grade;"
- Written language expression: The student's current instructional grade level for written language expression is "end of second grade;"
- Speech and language receptive language: The student's current instructional grade level for speech and language receptive language is "low to moderate range. [The student] demonstrated particular weaknesses in identifying synonyms and word opposites, as well as following multi-step directions with serial concepts. She also demonstrated difficulty answering questions that address details, main idea, sequence, inference, and social context related to a verbally presented paragraph;" and
- Self-management: The student's level of self-management performance was "elevated compared to same-age peers. Concerns were noted in several areas related to initiation, working memory, task management, and organization of materials. Izabella reportedly has a short attention span and has trouble beginning tasks. She can be easily distracted and often needs support to be efficient."

The student's IEP includes goals for reading fluency, reading comprehension, math calculation, written language mechanics, written language expression, speech and language: receptive language, and self-management.

The IEP requires the student to be provided with assistive technology devices to access the grade-level curriculum; specifically, she requires a calculator. In addition, the IEP requires the student to be provided with special considerations and accommodations, including instructional and testing accommodations, instructional supports, program modifications, social/behavioral supports, and physical/environmental supports.

- text-to-speech for mathematics, science, and government assessments
- human reader for mathematics, science, and government assessments
- frequent breaks
- reduced distraction to self
- extended time (1.5x)
- check for understanding
- allow the use of organizational aids
- allow the use of manipulatives
- frequent and/or immediate feedback
- break down assignments into smaller units
- provide structured time for the organization of materials
- frequent eye contact/proximity control
- encourage the student to ask for assistance when needed
- preferential seating

The IEP further requires the student to be provided with:

- Twelve 30-minute monthly sessions of classroom instruction outside of the general education classroom provided by the special education teacher or the instructional assistant for reading fluency;
  - Ten 20-minute monthly sessions of classroom instruction inside the general education classroom provided by the special or general education teacher or the instructional assistant for written language mechanics and expression;
  - Ten 20-minute monthly sessions of classroom instruction inside the general education classroom provided by the special or general education teacher or the instructional assistant for reading comprehension;
  - Eight 20-minute monthly sessions of classroom instruction inside the general education classroom provided by the special or general education teacher or the instructional assistant for math; and
  - Three 30-minute monthly sessions of speech and language therapy outside the general education classroom provided by the speech and language pathologist or the speech and language assistant.
11. There is no documentation demonstrating that the student was consistently provided with the accommodations, supplementary aids, services, program modifications, and supports as required by the IEP since the start of the 2023-2024 school year.
  12. There is documentation that the student has been provided with special education instruction for reading, writing, and math as required by the IEP since the start of the 2023- 2024 school year.
  13. The Speech and Language Service Calendar and Logs reflect that the student has been provided with speech and language therapy as required by the IEP since the start of the 2023- 2024 school year.

### **CONCLUSIONS:**

#### **Provision of Accommodations, Supplementary Aids, Services, Program Modifications and Supports:**

Based on the Findings of Fact #10 and #11, the HCPS has not implemented an IEP that addresses the student's identified need, specifically the provision of accommodations, supplementary aids, services, program modifications and supports, since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds a violation occurred concerning this aspect of the allegation.

#### **Provision of Special Education Instruction and Speech and Language Services:**

Based on the Findings of Fact #10, #12, and #13, the HCPS has implemented an IEP that addresses the student's identified needs, specifically the provision of special education instruction and speech and language services, since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find a violation occurred concerning this aspect of the allegation.

**ALLEGATION #3: PROVISION OF IEP DOCUMENTS FIVE DAYS PRIOR TO IEP MEETING**

**FINDINGS OF FACTS:**

14. While there is documentation that the complainant was provided with the draft IEP on February 20, 2024, which the IEP team planned to discuss at the March 4, 2024, IEP team meeting, there is no documentation that the parent was provided with the assessments and classroom data at least five business days prior to the March 4, 2024, IEP team meeting.

**CONCLUSIONS:**

Based on the Findings of Fact #9 and #14, the HCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the March 4, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred concerning this allegation.

**CORRECTIVE ACTIONS/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 noncompliance is corrected in a timely manner. This office 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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action. Ms. Barmat can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

**Student Specific**

MSDE requires that the IEP team provide documentation by July 1, 2024, that it has convened a meeting to determine the amount and nature of compensatory services necessary to redress the violations related to following proper procedures when identifying and evaluating a student under IDEA, provision of special considerations and accommodations, and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

**School Based**

MSDE requires the HCPS to provide documentation by July 15, 2024, of the steps taken to ensure that the violations regarding the lack of following proper procedures when identifying and evaluating the student to determine if the student is a student with a disability under IDEA, lack of consistent implementation of special considerations and accommodations and provision of accessible copies of the IEP documents prior to an IEP team meeting do not recur at [REDACTED]. Those steps must include staff development and a

monitoring report of eight randomly selected students with IEPs, which must be submitted to the MSDE by July 15, 2024, demonstrating that their supplementary aids and services and accommodations have been provided in the manner required by their IEP. Full compliance is required. If the monitoring does not reflect 100% compliance, HCPS is required to submit a second set of files no later than September 16, 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/sd

c: Dr. Sean Bulson, Superintendent, HCPS  
Stephanie Swisher, SE Coordinator of Compliance, HCPS  
[REDACTED], Principal, [REDACTED], HCPS  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Sarah Denney, Complaint Investigator, Dispute Resolution, MSDE