

August 8, 2024

Redacted¹:

Ms. Janice Yetter
Executive Director of Special Education
Howard County Public Schools
10910 Clarksville Pike
Ellicott City, Maryland 21042

RE: [REDACTED]
Reference: #24-256

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services 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 June 13, 2024, 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 School 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 has been provided with the special education instruction and related services required by the Individualized Education Program (IEP) during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
2. The HCPSS has not ensured that the student was provided with reports of quarterly progress toward achieving the annual IEP goals during the 2023- 2024 school year, in accordance with 34 CFR § 300.320.

BACKGROUND:

The student is 19 years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. During the 2023-2024 school year, he attended [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

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

FINDINGS OF FACT:

1. The student's IEP at the start of the 2023-2024 school year was developed on February 24, 2023. The IEP requires 17 hours weekly of specialized instruction inside the general education classroom, four hours and 15 minutes weekly of tutorial support outside the general education classroom, eight hours and 30 minutes weekly of specialized instruction outside general education for math and English, and 30 minutes weekly of speech-language therapy as a related service.
2. There is no documentation that the student was provided with the special education instruction and related services required by the IEP during the 2023-2024 school year.
3. The student graduated from the HCPSS in May 2024 with his high school diploma.
4. In its written response, the HCPSS acknowledges that the student was not provided with reports of quarterly progress toward achieving the annual IEP goals in the areas of written language, reading comprehension, self-management/behavior and study/organizational skills during the third and fourth quarters of the 2023- 2024 school year.

CONCLUSIONS:

ALLEGATION #1

PROVISION OF SPECIALIZED INSTRUCTION AND RELATED SERVICES

Based on the Findings of Fact #1 and #2, MSDE finds that the HCPSS has not ensured that the student has been provided with the special education instruction and related services required by the IEP during the 2023- 2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds that a violation did occur concerning this allegation.

ALLEGATION #2

PROGRESS REPORT

Based on the Finding of Fact #4, MSDE finds that the HCPSS has not ensured that the student was provided with reports of quarterly progress toward achieving the annual IEP goals during the 2023-2024 school year, in accordance with 34 CFR § 300.320. Therefore, MSDE finds that a violation did occur concerning this allegation.

CORRECTIVE ACTIONS AND 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.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 Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.³ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the HCPSS to provide documentation by October 15, 2024, that the team has convened a conference with the adult student and determined the amount and nature of compensatory services or other remedy to redress the lack of provision of specialized instruction and related services as required by the IEP during the 2023- 2024 school year and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The team shall also determine whether the violation related to the lack of provision of progress reports for quarters three and four of the 2023-2024 school year had a negative impact on the student's ability to benefit from the education program. If the 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 a year of the date of this Letter of Findings.

The HCPSS must ensure that the adult student is provided with written notice of the team's decisions. The adult student 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 by October 31, 2024, the HCPSS to provide documentation that it has provided professional development to [REDACTED] special education case managers on the following:

- The provision of special education and related services;
- Periodic reporting of IEP goals and the provision of quarterly progress reports; and
- Monitor the student records at [REDACTED] for compliance with the provision of specialized instruction, periodic progress reporting, and provision of progress reports during the 2023-2024 school year by October 31, 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.

Specifically, the HCPSS must provide a monitoring report for 10 randomly selected students at [REDACTED], reflecting data demonstrating compliance with the provision of special education services and the provision of quarterly progress reports. Full compliance is required. If 100% compliance is not reported, a second sample will be reported by January 15, 2025. If 100% compliance is not obtained, the HCPSS will confer with MSDE to determine next steps.

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 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/sj

c: Bill Barnes, Acting Superintendent, HCPSS
Kelly Russo, Coordinator of Special Education Compliance and Dispute Resolution, HCPSS
[REDACTED], [REDACTED], Principal, HCPSS
Paige Bradford, Section Chief, Programmatic Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Alison Barmat, Branch Chief, Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE
Nicole Green, Compliance Specialist, MSDE