

August 30, 2024

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-017

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 on the final results of the investigation.

ALLEGATION:

On July 31, 2024, MSDE received a complaint from [REDACTED] and [REDACTED], hereafter, “the complainants,” on behalf of the above-referenced student. In that correspondence, the complainants alleged that the Howard County Public School System (HCPSS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the allegation that the HCPSS has not followed proper procedures when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303-.306.

BACKGROUND:

The student is eight years old and is identified as a student with an emotional disability under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction.

FINDINGS OF FACT:

1. On February 14, 2024, the IEP team met to begin the reevaluation process, review existing data, gather information, and determine the need for assessments to help respond to the IEP team's questions about whether the student had additional disabilities that may include Attention-Deficit/Hyperactivity Disorder (ADHD), autism, emotional disability, speech-language, and occupational therapy concerns. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team considered all data presented and determined there was not sufficient data to make a decision regarding eligibility. The IEP

team proposed that the student receive additional assessments in the areas of educational, psychological, speech-language, and occupational therapy. The complainant provided consent for the assessments to be completed during the February 14, 2024, meeting.

2. On May 24, 2024, the HCPSS conducted an occupational therapy assessment.
3. On May 28, 2024, the complainant emailed the HCPSS inquiring about the assessments that should have been completed and requested an IEP meeting to review the assessments and update the student's IEP as they were near the end of the school year.
4. On May 29, 2024, the complainant emailed the HCPSS summarizing a phone conversation held on the same day. The email reflects the IEP member "acknowledged, [the student's] assessments have not been completed within the mandatory 90-day period and are still ongoing," and as a result, the student is entitled to compensatory services that will be determined once the assessments are completed.
5. On July 5, 2024, the HCPSS conducted a Speech-Language Assessment.
6. On July 9, 2024, the HCPSS conducted an Educational Assessment Report.
7. On July 10, 2024, HCPSS generated a "Notice of IEP Team Meeting" for an eligibility meeting scheduled for July 25, 2024. However, there is no documentation indicating that the complainant received notification of the meeting or that a meeting was held.
8. On August 1, 2024, the HCPSS conducted a psychological assessment.
9. On August 6, 2024, the IEP team convened to conduct the reevaluation of the student, determine eligibility under the IDEA, and, if appropriate, update the IEP for the student. During the meeting, the IEP team reviewed the current formal assessment data and determined the student continued to qualify for special education services with the disability code of Emotional Disability.
10. On August 16, 2024, the IEP team met to conduct an annual IEP meeting. The IEP team used the data from the recent assessments as well as curriculum-based assessments and teacher input to update the student's IEP.

DISCUSSION AND CONCLUSION:

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

Based on the Findings of Fact #1 through #10, MSDE finds that the HCPSS did not follow proper procedures when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303-.306. Therefore, this office finds that a violation occurred 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.¹ 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 action². 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 30, 2024, that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the reevaluation timeline violation and developed 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 complainants are provided with written notice of the team's decisions. The complainants maintain 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 October 30, 2024, of the steps it has taken to ensure that the staff at [REDACTED] receive professional development on the proper procedures for conducting IDEA evaluations to ensure they are completed and reviewed within the required timelines. Additionally, MSDE requires HCPSS to conduct an audit of 10 randomly selected students at [REDACTED] to ensure that their reevaluation was completed within the required timeline. If HCPSS identifies any students whose reevaluation process was delayed, the school must convene an IEP team to determine whether the delay negatively impacted the student's ability to benefit from the educational program. If a negative impact is found, the team must also determine the appropriate amount and nature of compensatory services or other remedies to address the violation. The results of the audit must be provided to MSDE by December 13, 2024.

1 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.

2 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 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, Superintendent, HCPSS
Kelly Russo, Coordinator, Special Education Compliance and Dispute Resolution, HCPSS
[REDACTED], [REDACTED], Principal, HCPSS
Dr. 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
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE