

October 10, 2024

Ms. Frances Shefter, Esq.  
110 N. Washington Street Suite 350  
Rockville, Maryland 20850

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

RE: [REDACTED]  
Reference: #25-028

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.

**ALLEGATIONS:**

On August 12, 2024, MSDE received a complaint from Ms. Frances Shefter, hereafter, “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) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The HCPSS did not ensure that the Individualized Education Program (IEP) team met to address the parent’s concerns regarding placement and the lack of progress the student made toward meeting his IEP goals since August 2023, in accordance with 34 CFR § 300.324.
2. The HCPSS did not ensure that the proper procedures were followed when responding to a request to inspect and review the student’s educational record since March 28, 2024, in accordance with 34 CFR § 300.613.

**BACKGROUND:**

The student is eight years old and is identified as a student with Autism under the IDEA. During the 2023-2024 school year, the student was parentally placed at the [REDACTED]<sup>1</sup> and has an IEP that requires special education instruction and related services.

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<sup>1</sup> Prior to the student attending the [REDACTED], the student attended [REDACTED].

### **FINDINGS OF FACT:**

1. While there is documentation that on August 13, 2023, the parents provided the HCPSS with a "10-day letter" as a "Notice of Intent to Place at the [REDACTED]," which included the statement, "If you have questions about this notice, please contact me and/or my husband via email...", there is no documentation indicating that the parent requested an IEP team meeting since August 2023.
2. On August 15, 2023, the parent provided the HCPSS with a 'Withdrawal Request' to unenroll the student from the HCPSS, effective August 14, 2023.
3. There is no documentation supporting the parent's allegation that the student was not making progress on his IEP goals.
4. There is documentation that the student was not enrolled in the HCPSS during the 2023-2024 school year.
5. There is documentation of a request to access the student record made on March 28, 2024.
6. In its written response, the HCPSS acknowledged that the copy of the student record was provided on July 25, 2024, which is beyond the 45-day timeframe from when the request to review the student record was made.

### **DISCUSSION AND CONCLUSIONS:**

#### **ALLEGATION #1                      ADDRESS PARENT CONCERN**

A unilateral placement occurs when a parent believes that their child's current educational placement is denying their child a free appropriate public education (FAPE), and the parent subsequently makes the decision to place their child in a private placement. A parent must provide notice to the public agency at the most recent IEP team meeting attended before removing the student from the public school; or in writing to the public agency at least 10 business days before removing the student from their public-school placement. Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures. (34 CFR § 300.148)

In this case, the complainant alleges that the HCPSS should have convened an IEP meeting after receiving a 10-day letter informing them of the parents' intention to place the student at the [REDACTED]. The purpose of the 10-day letter is to place the public agency on notice that the student will be unilaterally placed and provide the school system an opportunity to resolve the parents' concerns if they choose to. There is no requirement for the HCPSS to convene an IEP team meeting upon receipt of a 10-day letter. The parents' 10-day letter did not request an IEP meeting to address their concerns. Specifically, the letter states if HCPSS had any questions to contact the parents.

Based on Findings of Fact #1 through #3, MSDE finds that the parents did not request an IEP meeting with HCPSS. As a result, HCPSS was not obligated to discuss the parents' concerns regarding placement and the student's lack of progress toward meeting his IEP goals since August 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

## **ALLEGATION #2                      ACCESS TO STUDENT RECORDS**

Based on Findings of Fact #5 and #6, MSDE finds that the HCPSS did not ensure that the proper procedures were followed when responding to a request to inspect and review the student's educational record since March 28, 2024, in accordance with 34 CFR § 300.613. Therefore, this office finds that a violation occurred concerning the allegation.

Notwithstanding the violation, MSDE finds that based on Finding of Fact #5, the parents received the documents on July 25, 2024, therefore, no student based corrective action is required.

### **CORRECTIVE ACTIONS AND TIMELINE:**

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.<sup>2</sup> 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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **School-Based**

MSDE requires the HCPSS to provide documentation by December 31, 2024, of the steps it has taken to ensure that the staff at [REDACTED] receive professional development on the proper procedures for responding to a request to inspect and review a student's educational record.

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.

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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, the 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.

<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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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 FAPE for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The 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 of Special Education Compliance and Dispute Resolution, HCPSS  
Dr. Paige Bradford, Section Chief, Programmatic Support and Technical Assistance, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Stephanie James, Complaint Investigator, MSDE