

October 29, 2024

Ms. Ronetta Stanley  
Loud Voices Together  
P.O. Box 1178  
Temple Hills, Maryland 20757

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

Re: [REDACTED]  
Reference: #25-052

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 30, 2024, MSDE received a complaint from Ms. Ronetta Stanley, 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 IDEA evaluation was completed within the required timelines, since January 25, 2024, in accordance with 34 CFR § 300.301 and COMAR 13A.05.01.06.
2. The HCPSS did not ensure that the student’s education record was transferred to HCPSS since January 25, 2024, in accordance with 34 CFR § 300.323.
3. The HCPSS did not ensure that the Individualized Education Program (IEP) team convened to address the parent concerns, in accordance with 34 CFR § 300.324. Specifically, the complainant alleges:
  - The HCPSS determined compensatory services would be made by separate HCPSS personnel who were not in attendance at the IEP meeting on July 11, 2024;
  - The HCPSS did not convene an IEP team meeting for the purpose of addressing compensatory services; and
  - The parents were not afforded an opportunity to state any disagreement with the compensatory services letter provided on August 8, 2024.

**BACKGROUND:**

The student is four years old and is a student with a Developmental Delay (DD) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATION #1**

**EVALUATION PROCEDURES**

**SUMMARY OF FINDING AND CONCLUSION:**

In its written response, the HCPSS acknowledged that they did not ensure that the IDEA evaluation was completed within the required timelines, since January 25, 2024.

MSDE concurs and appreciates the HCPSS' acknowledgement that violations occurred with respect to the allegation.

Notwithstanding the violation, based on Findings of Fact #4 and #5, the HCPSS has developed the student's IEP and offered compensatory services to address the delay in completing the IDEA evaluation. Therefore, no additional student-based corrective action is required.

**ALLEGATION #2**

**TRANSFER EDUCATIONAL RECORD**

**FINDINGS OF FACT:**

1. The student previously lived in Prince George's County and received services under an IFSP through the PGCPs' Infants and Toddlers program.
2. There is no documentation that the Prince Georges County Public Schools (PGCPS) Infants and Toddlers program, was notified of the family's intent to relocate.
3. The HCPSS registration form completed on February 6, 2024, reflects the parent indicated that the student had Special Education Services but did not have an IEP.
4. There is no documentation that the HCPSS took reasonable steps to obtain the student's records from PGCPs' Infants and Toddlers program.

**CONCLUSION:**

To facilitate the transition for a student with a disability, the new public agency must take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the previous public agency 34 CFR § 300.323.

When a child and their family move within Maryland, the Early Intervention Record (EIR) must be sent to the new local infant and toddler's program (LITP). Providing the record from one Maryland county to another is known as a "transfer."

When the parent informs the receiving LITP that the family has moved from another Maryland jurisdiction in which the child and family were receiving early intervention services. The designated staff member from the new jurisdiction contacts the designated staff member from the original (sending) jurisdiction to indicate that the family has relocated and to talk about a transfer plan. This includes a request for the original (sending) jurisdiction to transfer the Early Intervention Record. The designated staff member from the original jurisdiction should complete the transfer request within five working days. (The Early Intervention Record: Transfer and Release MSDE TAB #19-04).

Based on the Findings of Fact #1 through #4, MSDE finds that the HCPSS did not ensure that the student's education record was transferred to the HCPSS since August 2024, in accordance with 34 CFR § 300.323. Therefore, this office finds that a violation occurred concerning this allegation.

Notwithstanding the violation, based on the Finding of Fact #5, the HCPSS has determined that the student qualifies for special education services. Therefore, no additional student-based corrective action is required.

### **ALLEGATION #3 COMPENSATORY SERVICES DETERMINATION**

#### **FINDINGS OF FACT:**

5. On July 11, 2024, the HCPSS' IEP team convened to develop the initial IEP. The PWN generated following the IEP meeting, reflects:
- the parent requested an OT assessment; and
  - the complainant, expressed that the "family has concerns related to the delay for the initial evaluation."

The IEP team informed the parent and the complainant that the HCPSS will address the impact of the delay through compensatory services. The IEP team shared that decisions regarding compensatory services are made by a separate office. The complainant expressed disagreement with compensatory service determinations being made outside of an IEP team.

6. On August 8, 2024, the HCPSS central office staff emailed a compensatory services letter to the parent. The letter reflects that the student's "eligibility for special education services was impacted due to the delay in conducting evaluations," and that compensatory services were awarded as a result. The letter further reflects that the HCPSS offered "10 hours of classroom instruction and 60 minutes of occupational therapy services."
7. On August 12, 2024, the IEP team reconvened to address parental concerns. The PWN generated following the IEP team meeting reflects the complainant raised concerns about the Child Find process and the compensatory services that may be owed. The complainant also raised concerns that the IEP team did not address the parents' concern. The school-based team informed the complainant that the IEP was updated to reflect parental input and was shared with the parent on July 25, 2024. The school-based team proposed to schedule a follow-up meeting to continue to address parental concerns.
8. On September 5, 2024, the IEP team reconvened "to discuss parental concerns." The PWN generated following the IEP meeting reflects the meeting was a continuation from the IEP team meeting on August 12, 2024. Issues raised by the parent and the complainant, including the delay with providing services due to the evaluation violation and the amount of compensatory services, were addressed in the meeting on September 5, 2024.

### **DISCUSSION AND CONCLUSION:**

While the IDEA regulations do not specifically address the issue of missed special education and related services, courts have regularly awarded compensatory services as an equitable remedy for violations of the public agency's obligation to provide a free appropriate public education (FAPE). The purpose of compensatory services is to remediate the negative impact experienced by the student due to the denial of FAPE. There is no requirement that compensatory services be determined by an IEP team.

In this case, the HCPSS acknowledged in the July 11, 2024, IEP team meeting that there was a delay in the IDEA evaluation and that the central office would address any compensatory services. The HCPSS provided a compensatory services letter to the parent on August 8, 2024.

Based on the Findings of Fact #5 and #6, MSDE finds that the HCPSS was not required to convene an IEP team meeting to determine compensatory services and provided a compensatory remedy to the parent on August 8, 2024. Therefore, this office finds that a violation did not occur.

In this case, the complainant alleged they were not afforded an opportunity to express any disagreement with the compensatory services offered by HCPSS. On August 12, 2024, the IEP team convened, and the complainant discussed concerns regarding the compensatory services offered in the HCPSS' compensatory services letter. Additionally, on September 5, 2024, the IEP team met and addressed the parent's concerns regarding compensatory services.

Based on the Findings of Fact #7 and #8, MSDE finds that the HCPSS discussed parental concerns regarding compensatory services at the August 12, 2024, and September 5, 2024, IEP team meetings, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur.

### **CORRECTIVE ACTION 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 timeframes below to ensure that noncompliance is corrected in a timely manner. <sup>1</sup> 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. <sup>2</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

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<sup>1</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, 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>2</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.

## School-Based

MSDE requires the HCPSS to provide documentation by February 1, 2025, of the steps it has taken to ensure that the HCPSS' Child Find Office and Infant's Toddler's Program staff properly implements the requirements for the obtaining the education records of transfer students and the implementation of evaluation timelines under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance.

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 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/ra

c: William Barnes, Acting Superintendent, HCPSS  
Ms. Kelly Russo, Coordinator of Special Education Compliance and Dispute Resolution, HCPSS  
Dr. Paige Bradford, Chief, Specialized Instruction, MSDE  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Rabiatu Akinlolu, Compliant Investigator, MSDE