




Mohammed Choudhury
State Superintendent of Schools

April 8, 2022




Dr. Terri Savage
Executive Director of Special Education
Howard County Public School System
10910 Clarksville Pike
Ellicott City, Maryland 21042

RE: 
Reference: #22-094

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.

ALLEGATIONS:

On February 14, 2022, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the HCPS has not ensured that the student has been provided with the special education instruction and supports required by the Individualized Education Program (IEP) since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Specifically, you allege the following:

- a. The student has not been provided with specialized instruction necessary to access grade-level instruction;
- b. The student has not been provided with adult support;
- c. The student has not been provided with his feeding services; and
- d. The student has not been provided with behavior and social skills support.

BACKGROUND:

The student is twelve (12) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021-2022 school year required specialized instruction in the area of reading comprehension, math and written language.
2. The progress reported on the student's academic annual IEP goals dated November 3, 2021, for reading comprehension reflects the student was making sufficient progress in rereading text and locating a piece of information and identifying the main idea. The report also reflects that the student was able to identify two key details from the text and answer inferential multiple choice questions, with 80% accuracy.
3. The progress reported on the student's academic annual IEP goals dated November 3, 2021, for math reflects the student was making sufficient progress in identifying key words to solve addition or subtraction problems. The report also reflects that the student was able to correctly use a number line and identify key words and numbers in a word problem with 80% accuracy.
4. The progress reported on the student's academic IEP goals dated November 3, 2021, for written language reflects the student was making sufficient progress in writing an introduction sentence, providing descriptive details, and providing a closure sentence.
5. The student's IEP in effect at the start of the 2021-2022 school year requires weekly social skills training, daily adult support, daily encouragement and reinforcement of appropriate behavior in academic and nonacademic settings, and daily "social stories" by the special education teacher, instructional assistant, or general education teacher.
6. The progress reported on the student's social interaction skills annual IEP goals dated November 3, 2021, reflects that the student was making sufficient progress in the classroom participating in lessons on social skills and feelings. The report also reflects that the student asks, "questions or makes comments in response to an interaction with a teacher but requires prompts for peer interactions, identifies pictures that depict happy or sad feelings."
7. The progress reported on the student's self-management/behavior annual IEP goals dated November 3, 2021, reflects that the student was making sufficient progress in following classroom expectations and accepting a break when frustrated or restless.
8. There is no documentation indicating the provision of daily "social stories" to the student.
9. The student's specialized instruction, social interaction skills, self-management/behavior, and close adult supervision are reflected on his schedule.

10. An email from the HCPS staff dated October 4, 2021, reflects that the student has a “paraprofessional or student assistant with him at all times”. However, his schedule reflects class periods with only one adult present.
11. The student’s IEP in effect at the start of the 2021-2022 school year requires consultation with a school psychologist, as needed.
12. There is no documentation indicating that the student was provided with consultation from a school psychologist.
13. The student’s IEP in effect at the start of the 2021-2022 school year requires a healthcare plan that is implemented throughout the school day to address the student’s feeding needs, a daily feeding protocol to closely monitor the student in the cafeteria, prompting to try new foods, and adult supervision to monitor what he eats and how much which is recorded in his communication log for the complainant.
14. The documentation of the student’s feeding services reflects that on at least eleven (11) occasions there is no documentation that required feeding services were provided.
15. There is no documentation indicating that the HCPS has developed a health care plan to address the student’s health or feeding needs.
16. There is no documentation indicating that the HCPS has developed a feeding protocol for the student.
17. The student’s attendance record reflects he has not attended school since December 15, 2021.

CONCLUSION:

Based on the Findings of Facts #1 - #7 and #9, the MSDE finds that the HCPS did provide the student with specialized instruction and social skills required by the IEP since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation has occurred with respect to this aspect of the allegation.

Based on the Findings of Facts #5 and #8 - #16, the MSDE finds that the HCPS has not consistently provided the student with adult, behavior, and feeding supports required by the IEP since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

CORRECTIVE ACTIONS/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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below. The MSDE has established reasonable time frames below

to ensure that non-compliance 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 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the HCPS to provide documentation that the student is being provided with the behavior support, adult support, nursing services to include the development of his health care plan, and feeding protocol and services as required by the IEP.

The MSDE requires the HCPS to provide documentation that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the lack of provision of behavior support, adult support, nursing services, feeding protocol and services and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The HCPS must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

The MSDE requires the HCPS to provide documentation of the steps taken to ensure that the violations identified do not recur at [REDACTED]. The documentation must include a description of how the HCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

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, 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.

² The 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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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. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Early Intervention/Special Education Services

MEF/tg

c: Michael J. Martirano
Kathryn Lyon
Kelly Russo
■
Brian Morrison
Diane Eisenstadt
Gerald Loiacono
Tracy Givens