

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

In the Matter of:

S.C., on behalf of R.S.

Petitioner/Appellant,

v.

Lexington County School District One,

Respondent/Appellee.

This matter is before me pursuant to an appeal by S.C. (“Parent”) on behalf of R.S. (“Student”), of a decision by Bruce Smith, the Local Hearing Officer (“LHO”), dismissing with prejudice the Parent’s due process complaint against Lexington County School District One (“District”) for a lack of sufficiency under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400, *et seq.*

The Parent initiated a due process complaint on December 16, 2025. On December 18, 2025, the District submitted a sufficiency challenge and a motion to dismiss this complaint. On December 23, 2025, the LHO dismissed the case with prejudice. On January 2, 2026, the Parent timely filed a notice of state-level appeal. Both parties submitted briefs according to the agreed upon schedule. On January 20, 2026, the Parent submitted a motion to supplement and clarify the

record. The following day, the District filed a pleading in opposition to the Parent's motion and a counter-motion to strike the Parent's reply brief and compel disclosure of the status. On January 21, 2026, the SRO issued an order denying the District's motion to strike the Parent's reply brief and with specific follow up requests to both parties to disclose evidence submitted to the LHO and respond to specific questions about the case. Both parties complied.

2. Factual Background

Because this is an appeal of a dismissal for lack of sufficiency rather than an appeal of a decision after a full hearing, I review all facts in the light most favorable to the Parent. That said, from the pleadings and supplemental provision of documents, there appears to be little, if any, material disagreement about the facts. I have cited below the evidence for any facts beyond those on which the LHO relied.

The Student was enrolled in Pre-Kindergarten at an elementary school in Lexington School District One at the start of the 2024-2025 school year. In August 2024, the school and the Parent together developed an Individualized Education Program ("IEP") for the Student based on multiple disabilities. He was in a regular education class with supportive resources. He received services at the elementary school during the fall of 2024. On December 20, 2024, the Parent received a phone call from the District stating that the Student was not a resident of the District and would therefore not be allowed to attend school in the District, effective immediately. This decision effectively terminated the classroom placement and special education services that the District had agreed to provide via the IEP. The District has acknowledged that no written communication followed. (See email from District to SRO, January 26, 2026). The Parent sent an email on December 23, 2024, to the Executive Director of Student Services that objected to the District's assertion that the Student could no longer receive special education services from the District

The Parent wrote: “Our home address is zoned for Lexington district 4, however, I feel that my son’s educational needs will not be met there since he has a developmental delay which required an IEP being created.” The Parent further went on to say that the District had allowed her to enroll the Student in Lexington District One on the basis of her father-in-law’s address, “even though I made it very clear this was not our primary residence.”

In response to the SRO’s request for all written records from the District concerning this case from December 2024 to January 2025, neither party provided any documents beyond those described above. The Parent stated that she sent multiple written requests asking for documentation about the removal and requesting assistance in finding a solution, but did not provide those emails. The District only provided the email referenced above. There is no dispute, however, that the Student was unenrolled from the District and special education services under the IEP ceased.

This matter stood at a standstill until the fall of 2025, when the Parent began requesting McKinney-Vento eligibility in Lexington School District One. The Parent filed a complaint with the State Department of Education challenging the District’s determination that the Student was not a resident. On October 7, 2025, the Parent apparently attended a McKinney Vento eligibility meeting with Lexington District One, after which she was found not to be eligible for McKinney-Vento services. (See October 7, 2025 Letter from Puente-Ruiz). The Parent initiated an appeal of this finding, and the Lexington District One Executive Director for Student Services upheld the decision. (See October 20, 2025 Letter from McCormack). The Parent then appealed to the Office of the McKinney-Vento State Coordinator who said that the Student was not eligible for McKinney-Vento eligibility in Lexington School District One but that the Student was living in Lexington School District Four. (See November 10, 2025 Letter from Wright).

The Parent then filed two state complaints against Lexington County School District One on behalf of the Student. The state determined that these complaints were insufficient to initiate an investigation as the Parent “failed to allege any violations of the IDEA during a period of time when Student was eligible for the provision of a free appropriate public education (FAPE) by Lexington One.” (See Letter November 18, 2025 from Ross). The state said that a determination made in accordance with the requirements set forth in McKinney-Vento does not require the issuance of a Prior Written Notice (“PWN”) under the IDEA and that the IDEA state complaint could not override the McKinney-Vento state-level decision. In further correspondence with the State, the state said that “There is no authority under the provisions of the IDEA to override the provisions in McKinney-Vento and demand Lexington One enroll your children. Additionally, as previously explained, because you currently have no legal entitlement to enrollment in Lexington One, there is no legal basis to require Lexington One to implement the prior written notice, stay put, Child Find, parental participation or delivery of services provisions in the IDEA relative to your children.” (See Email December 17, 2025 from Moore). This letter, like the McKinney-Vento letter written the previous month focus on the Student’s present ineligibility for special education services from Lexington One due to his residency in Lexington Four. Neither letter determines the family’s residency in December 2024, although the Parent’s December 23, 2024 email acknowledges the family lived in Lexington Four at that time. Neither letter from the State Department of Education addresses the District’s obligations or the Parent’s rights under the IDEA in December 2024.

3. Standard of Review

Federal and state regulations provide that a party aggrieved by a LHO decision may appeal to a State Review Officer (“SRO”) who must “[e]xamine the entire hearing record” and “[m]ake an independent decision on completion of the review.” 34 C.F.R. § 300.514(b)(2)(i) and (v) (2014). The SRO may seek additional evidence if necessary. 34 C.F.R. § 300.514(b)(2)(iii). Ordinarily, the SRO must also consider the hearing officer’s advantage of examining the demeanor of the witnesses when credibility determinations are at issue. *Id.*; *Shore Reg’l High Sch. Bd. Of Educ. v. P.S. ex rel. P.S.*, 381 F.3d 194, 199 (3d Cir. 2004). In doing so, the findings of fact of the LHO are entitled to deference and are considered prima facie correct. *M.S. ex rel. Simchick v. Fairfax Cnty. Sch. Bd.*, 553 F.3d 315, 326 (4th Cir. 2009); *Doyle v. Arlington Cnty. Sch. Bd.*, 953 F.2d 100, 105 (4th Cir. 1991). However, the SHO must still determine the weight of the evidence and questions of law independently. *Springer v. Fairfax Cnty. Sch. Bd.*, 134 F.3d 659, 663 (4th Cir. 1998) (differentiating itself from *Doyle*). Given that the LHO granted the District’s motion to dismiss, no hearing took place, and there were no credulity or other factual findings. Moreover, I am in possession of all documents that the LHO had in making a decision. Accordingly, I will be making my decision without the traditional deference to the LHO.

4. Hearing Officer’s Findings

The LHO granted the District’s motion to dismiss due to the lack of sufficiency of the complaint. The District argued that the complaint lacked the factual basis to establish the District as the Local Educational Agency (“LEA”) responsible for the Student. The District also argued that this violation was not within the Statute of Limitations. The LHO determined that the LEA is not the Student’s district of origin under McKinney Vento Act and the District does not have adequate jurisdiction over the issue, and therefore had no obligation to provide services to the Student. Accordingly, the LHO ruled that the Parent’s complaint lacked sufficiency, and because

the lack of sufficiency cannot be cured for the period of time included in the due process complaint, the Motion to Dismiss was granted with prejudice.

5. Discussion

Issue Presented

The pleadings, the state-level complaints, and the LHO's analysis muddle the issue at hand. In an effort to resolve this case as efficiently as possible, I asked the parties to provide additional information. Specifically, I requested to see all documents shared with the LHO. I also requested any written communication about residency from the District to the Parent in December 2024 or January 2025. I asked both parties questions to understand if any further appeals or findings about residency existed in the records.

I am not reviewing the merits of the original due process complaint but am reviewing the LHO's decision to dismiss the complaint. That issue turns on whether the complaint was sufficient. The IDEA defines sufficient as meeting particular information requirements in the complaint. 34 C.F.R. § 300.508(b). Beyond that, however, parties may request to dismiss a complaint for other reasons, including lack of obligation of the District to the student (for instance, due to residency outside the District) or being outside the statute of limitations. The LHO seemed to dismiss the case because of these final two reasons, not the lack of information in the complaint.

The Parent is requesting a hearing to unearth and discuss the issues in the case. The District is arguing that the many pleadings and state level rulings that have taken place have settled the issue.

IDEA Requirement for Due Process Complaint

The IDEA requires very specific information in the Due Process Complaint – the name of the child, the address of the child’s residence, the name of the school the child attends, contact information for the child, a description of the nature of the problem and a proposed resolution. 34 C.F.R. 300.508(b). The District argues that the Parent’s pleading did not include all of these because it requires a valid residence to be pleaded and that the wrong legal party is named. The address listed on the pleading in Gaston, SC is the current address of the Student and is a valid residence. The fact that this residence is not within Lexington School District One does not make the complaint insufficient. Due process complaints do not require a Student to currently be a resident of a district; they require that the district was responsible for the Student at the time of the IDEA violation being described. The question, therefore, is whether the Parent raised a colorable claim that the District had an obligation to the Student and violated any such obligation when it stopped providing special education services in December 2024.

Statute of Limitations

The LHO, without discussion, said that this complaint fell outside the statute of limitations of the IDEA. The IDEA statute of limitations is two years. 34 C.F.R. § 300.507(a)(2). This complaint is based on an issue that occurred in December 2024, so it is well within the statute of limitations.

Obligation to the Student

The LHO used the term “jurisdiction,” to refer to whether the Student resided within the jurisdiction of the District. The question is not one of the District’s jurisdiction (or authority) *over* the student, but whether the District had any obligation to provide special education services to the Student in December 2024, or anytime following the District’s mandate that the

Parent no longer send him to the District. On December 20, 2024, when the Parent received the phone call about Residency, Lexington School District One was still the district educating this Student and responsible for his IEP. The Student should not have been attending school in the District; however, the District had taken responsibility for the Student and his needs at the time. When the District determined that the Student was not a resident and directed the Parent to not send him to school, it changed the Student's special education placement and services. Indeed, if the Parent's statements via email to the District immediately after the District's notice are accurate, the District was changing the Student's special education services that the District itself had agreed to provide with full knowledge of the Student's residency in a different District. (As noted above, given this case's procedural posture, I must take all facts in the light most favorable to the Parent. I do not, of course, make any factual findings on disputed issues and, specifically, make no finding whether the District was aware of the family's residency in Lexington Four when it enrolled him.) PWNs must be issued when a school district "proposes to initiate or change the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education (FAPE)." 34 C.F.R. § 300.503. PWN is required prior to the implementation of any changes decided upon. SC Special Education Process Guidelines, p. 8. The purpose of PWN is to make sure parents understand the decision-making by the district and to understand their rights under the law.

Because the District was changing the Student's special education placement and services, it should have provided the Parent with a prior written notice ("PWN") of that change, as well as her procedural rights to challenge it if she wanted to (and as her email of December 23, 2024 suggests she did). Districts are required to provide a PWN to inform parents of their rights. PWN obligations also serve important purposes for the special education legal system: by

informing parents of their rights and the procedural paths to pursue those rights under the IDEA, it makes it more like that parents will follow the proper paths and do so in a timely manner. The present case illustrates the problems that can result when District's fail to provide PWN. The Parent clearly objected to the District's decision yet did not have information necessary to pursue her rights through anything other than emails to District officials. And despite her prompt objection, she did not file a due process complaint until one year later – and she cannot be faulted for that delay when the District failed to give her notice of her rights.

After December 20, 2024, however, the question of the District's obligation to the Student is less clear. If the Student's residency in another District was clear, then the Student should not have been attending the District and the District no longer had any obligation after December 20, 2024. If, however, residency was not clear and was a disputed matter, potentially under McKinney-Vento, then the question becomes more complicated: If the District had properly provided a PWN, would the Parent have filed a due process complaint immediately? The answer is likely yes, given the Parent's prompt email complaining of the District's decision. Following such a complaint, would the Student have been eligible for stay put provisions under the IDEA while the dispute was being raised? What relief would the parent have had, if any?

The State has reviewed the residency question several times, and the Parent says that the State received many documents, including affidavits from those in Lexington One the family was allegedly living with. The State has determined that the Student did not qualify as homeless under McKinney Vento and that the Student's current address is in Lexington School District Four. While the Parent may wish to appeal the McKinney-Vento determination (which was issued in response to the Parent's own appeal), the IDEA due process complaint process is not the path to do so. I have neither the record of the residency appeal to the State before me, nor the

authority to review that decision. One point is, however, clear: the address of the Parent in the fall of 2025 was the same address that the parent's December 2024 email acknowledges was her primary residence. So the residency ruling in the fall of 2025 almost certainly applied in December 2024.

Accordingly, even if the District had properly provided the Parent with a PWN and the Parent had filed a due process complaint, the Student likely would have been found not to be a resident. Indeed, the Parent's own email to the District acknowledges that the Parent and Student are not residents of the District. Therefore, a due process hearing would not have led to any obligation by the District to provide special education services on an ongoing basis. The only potential benefit to the Parent and Student would have been to trigger the IDEA's stay put requirement pending the due process complaint's adjudication. 34 C.F.R. § 300.518(a). At most, the Student would have received additional services until the dispute was resolved.

That difference indicates the importance of the question of whether the Parent was given proper notice to dispute the determination. Given that this was a pure residency determination and not one based on McKinney-Vento, no documentation was required for the residency determination. However, as stated earlier, because the District also was making a change in the Student's IEP, it should have issued a PWN. The District's PWN issued on December 18, 2025, after the due process complaint was filed, was given nearly one year after the proposed changes were put into place, and only in response to the Parent's due process complaint. This PWN includes the line "The obligation for continued enrollment (stay-put) was not initiated under IDEA . . . because the McKinney-Vento dispute was not filed until October 2025, nearly 10 months after Lexington One's December 2024 determination to unenroll the student." The stay-put provision may have been available had the Parent had the opportunity to file the dispute

immediately. Issuing a PWN nearly a year after the action does not provide meaningful safeguards to the Parent.

6. Conclusion

I overturn the LHO's dismissal based on sufficiency. The District still had an obligation to the Student on December 20, 2025. However, I confirm that the Student is no longer a resident of Lexington School District One and does not have rights to services at Lexington School District One. I also find that Lexington School District One erred in not issuing a PWN on December 20, 2004, when changing the IEP placement for the Student, and that in context of the record provided to the State Review Officer, it is likely that the Parent would have filed a due process complaint had the District provided a PWN.

Given that this case has been litigated at length already, instead of remanding to the LHO to determine whether any remedy should be provided, I will order the remedy based on the facts that I have reviewed.

A due process complaint to request a stay put order must be requested within 15 days of receiving notice of a proposed change. A resolution meeting must occur within 15 days of this due process complaint. Given the clarity of the residency issue, it is unlikely the case would have moved past the resolution session. Based on the Lexington School District One calendar for 2024-2025, January 19 would have been the final deadline for the resolution hearing had the District provided by the Parent with a PWN. Because of the winter holidays, this would have meant that the Student would have received 9 additional days of school. Based on his IEP, that is the equivalent of 21.75 hours of compensatory education time.¹

¹ The Student's IEP had the following requirements:

- Functional communication 5 times/wk or 325 minutes/week. This is the equivalent of 65 minutes/day. For 9 days, that is the equivalent of 585 minutes.

While I understand that the Parent has a preference for Lexington School District One, the record of this appeal and the many rulings from the State Department of Education suggest that she lives in Lexington School District Four. This district has an obligation to provide special education services consistent with the IDEA. If that district does not, the parent has a remedy in the form of a due process complaint against that district.

Indeed, the remedy included in this decision is a modest one, consistent with the legal issue in this case. The District should have provided a PWN to the Parent, but the District was correct to assert that it did not have an ongoing obligation to the Student due to the Student's lack of residency, so the failure to issue a PWN only deprived the Student of special education services that would have been provided by the Student's Stay Put rights. The Parent and Student are entitled to ongoing special education services in their district of residence, and arranging for those services is likely of far greater import to the Student than the compensatory education order noted above. Indeed, the Parent might reasonably determine that devoting time to establishing special education services in her and her children's district of residence is a better use of time than pursuing the limited compensatory education.

7. Notice of Appeal Rights

Any party aggrieved by this decision may commence a civil action with respect to the complaint presented in any state court of competent jurisdiction or in a district court of the

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- Pre-Academic Readiness 5 times/week or 75 min/week. This is the equivalent of 15 minutes/day. For 9 days, that is the equivalent of 135 minutes.
 - Behavior Support 5 times/week or 225 min/week. This is the equivalent of 45 minutes/day. For 9 days, that is the equivalent of 405 minutes.
 - Speech & Language Support in a pull-out classroom 4 times/month or 120 min/month. This is the equivalent of 30 min/meeting. In 9 days, we can assume 2 meetings, or 60 minutes.
 - Speech & Language Support in the general education classroom 8 times/month or 240 min/month. This is the equivalent of 30 min/support. In 9 days, we can assume 4 sessions, or 120 minutes.
 - All of this adds up to 1305 minutes or 21.75 hours.

United States within ninety (90) days of the date of this decision. 20 U.S.C. § 1415(i)(2)(A)-(B)
and 34 C.F.R. § 300.516.

s/Avni Gupta-Kagan

Avni Gupta-Kagan

State Hearing Officer

February 1, 2026