

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

In the Matter of:

S.C., on behalf of S.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 S.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 a pre-school aged child whose sibling was enrolled at an elementary school in Lexington School District One at the start of the 2024-2025 school year; due to her age, the Student was not enrolled in school. The Parent raised developmental concerns and the District agreed to schedule an evaluation for the Student on January 29, 2025. On January 27, 2025, the District cancelled the evaluation, claiming that the Student was not a resident of the District. This decision effectively terminated the evaluation process that the District had started. No further written communication is part of the record.

While a separate matter altogether in front of me, some facts regarding the Student's older sibling are relevant as further complaints included both children. On December 20, 2024, the District informed the Parent that the Student's sibling could no longer attend school in the District because the family was not a resident of the District. In a follow-up email, the Parent

said the Student was enrolled based on the Parent's father-in-law's address but admitted that they had been living in Gaston, SC (which is not in the District) at the time.

This matter was 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 (4<sup>th</sup> Cir. 2009); *Doyle v. Arlington Cnty. Sch. Bd.*, 953 F.2d 100, 105 (4<sup>th</sup> 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 (4<sup>th</sup> 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 canceled the Student’s evaluation in January 2025.

## **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 January, 2025, 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* the student – specifically, to evaluate the Student in January 2025. The Student was not a resident of the District at the time, but the District had scheduled the meeting believing that he was based on the Student’s sibling’s enrollment in the District. Indeed, if the Parent’s statements via email to the District immediately after the District’s notice are accurate, the District was aware at the time of agreeing to schedule the evaluation that the Student’s residency was 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.)

Prior Written Notices (“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.

Given that the District had no obligation to serve the Student at all, it could be argued that a PWN was unnecessary. However, because the District scheduled the evaluation (allegedly with full knowledge of the family's residency) and then cancelled it, it stands to reason that a PWN should have been issued explaining the reason for the cancellation of the evaluation, as well as her procedural rights to challenge it if she wanted to. 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 likely 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 regarding the Student's sibling, yet did not have information necessary to pursue her rights through anything other than emails to District officials.

This is merely a procedural issue, however, unless residency was truly a disputed matter. If the District had properly provided a PWN, would the Parent have filed a due process complaint immediately? 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 (as of November 2025) 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, and there is nothing in the record to suggest any different result. 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 evaluate the Student. No benefit to the Student would have been triggered during the time of the due process hearing.

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 its willingness to evaluate the Student, which it has previously agreed to do, 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.

As a note, the Parent argues that Child Find obligations under the IDEA exist regardless of residency. The IDEA and associated regulations do make child find a state requirement, stating that “The State must have in effect policies and procedures to ensure that all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. “34 C.F.R. §300.111. Within South Carolina, the Special Education Process Guide makes clear that the LEA is responsible for identifying children “who reside within the LEA.” Special Education Process Guide for South Carolina, p. 23. The state review of the family’s residency made clear that Lexington School District Four was available and ready to evaluate the Student. That district, and not Lexington One, had (and, if the family’s residence is the same, has) a child find obligation to the Student.

## **6. Conclusion**

I affirm the LHO’s dismissal based on sufficiency. While the District should have issued a PWN, that failure did not impose any substantive harm on the student and no appropriate remedy exists for the Parent or the Student. 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 identify and evaluate special education needs and 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.

## 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 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.

A handwritten signature in cursive script, reading "Avni Gupta-Kagan", is written above a horizontal line.

Avni Gupta-Kagan

State Hearing Officer

February 1, 2026