



Karen B. Salmon, Ph.D.  
State Superintendent of Schools

July 6, 2018

XXX  
XXX  
XXX

Ms. Trinell Bowman  
Director of Special Education  
Prince George's County Public Schools  
John Carroll Elementary School  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXX  
Reference: #18-150

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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.

**ALLEGATION:**

On May 8, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, hereafter “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Prince George’s County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the PGCPS has not ensured that the student’s Individualized Education Program (IEP) has identified and included appropriate services to address all of the student’s needs, whether or not commonly linked to the disability category in which he has been classified, since the start of the 2017 – 2018 school year, in accordance with 34 CFR §§300.101, .320 and .324.

**BACKGROUND:**

The student is six (6) years old and attends XXXXXXXXXXXXX. He is identified as a student with an Other Health Impairment (OHI) under the IDEA related to Attention Deficit Hyperactivity Disorder (ADHD), and has an IEP that requires the provision of special education and related services.

## **FINDINGS OF FACTS:**

### **The August 17, 2017 IEP**

1. The initial IEP, in effect at the start of the 2017 - 2018 school year, was developed on August 17, 2017.
2. The IEP documents that the areas affected by the student's disability are speech/language articulation and fluency, social, emotional, and behavioral functioning, and adaptive skills related to self-care and personal responsibility. The IEP includes annual goals in each of these areas.
3. The IEP documents that the student requires accommodations and supplementary supports that include frequent breaks, reduced distractions, extended time, the use of a visual timer and first-then board, gaining attention prior to instructions, repetition of directions, preferential seating, and shortened pencils/crayons to assist with proper grasp.
4. The IEP requires that the student be provided with thirty (30) minutes per day of specialized instruction in a general education classroom, primarily by a special educator, "to assist with self-management and targeted behavior skills."

### **Social, Emotional and Behavioral Functioning**

5. The August 2017 IEP documents that the student has difficulty with initiating social interaction, seeking assistance, and taking turns.
6. The August 2017 IEP included goals for the student to wait for his turn and increase self-regulation by calming himself.
7. The social/behavioral supplementary supports required by the August 2017 IEP are advanced preparation for changes in schedule, encouraging the student to request assistance when needed, and reinforcing positive behavior through verbal and nonverbal communication.
8. The student achieved the behavior goals by March 2018.
9. In May 2018, the IEP team revised the IEP during the annual review of the student's educational program. The May 2018 IEP does not document any concerns or needs in the areas of adult and peer interactions.

### **Attention, Concentration, and Executive Functioning**

10. The August 2017 IEP includes the results of an independent psychological assessment conducted by the XXXXXXXXXXXXXXXXXXXX (XXX) in November 2016. The report documents that the student has been diagnosed with having ADHD, combined type, as well as a developmental coordination disorder, and contains recommendations for the provision of specific supports and services.

XXX

Ms. Trinell Bowman

July 6, 2018

Page 3

11. There is no documentation of whether the IEP team decided to accept or reject the recommendations for services within the report.

### **Fine Motor Skills**

12. The August 2017 IEP states that the student exhibits a “mild intention tremor” when performing tasks, that he uses a “palmer grasp” to hold a pencil, and that his grasp is functional when using shortened writing utensils. While the IEP states that the student “demonstrates the motor skills needs for him to be successful at fine motor activities,” there is data that the student has difficulty with tasks involving the use of fine motor skills, such as using a zipper.
13. On October 10, 2017, the IEP team convened. The complainant reported that the student’s handwriting is affected by a lack of muscle tone. The complainant’s advocate requested direct occupational therapy (OT) services for the student. The IEP team refused the request, stating that the student does not require the skilled intervention of an occupational therapist through direct services. The team revised the IEP team to require consultations by an occupational therapist, or certified occupational therapy assistant, twice a month, with the school staff, to provide supports for the student to be successful in the classroom, including how to compensate for his difficulty with writing. However, there is no documentation that the team considered whether services could be provided by any other type of provider to strengthen the student’s muscle tone in order to enable him to develop the skills to complete tasks such as using a zipper independently.
14. In November 2017, the school system staff documented that the student was demonstrating “shakiness” when engaged in any tasks involving writing or fine motor skills. They decided to provide the student with a slant board to determine its effectiveness with writing.
15. In December 2017, the IEP team discussed that the student’s shaking is impacting his writing, and that a slant board and pencil grips are being provided as strategies to support his writing.
16. In February 2018, the school system staff documented that the student’s use of the slant board is only “intermittent” and that he continues to display shakiness when completing fine motor tasks.
17. At the May 31, 2018 IEP team meeting, the school staff reported that there was an increased shakiness in the student’s hands, which was “an area of concern.” The complainant reported that the student’s shaking is causing weakened muscle tone in his forearm when writing for extended periods of time.

XXX

Ms. Trinell Bowman

July 6, 2018

Page 4

18. The IEP team discussed that the OT staff consult with the classroom teachers to support the student's handwriting, and that the student receives adapted paper for writing. The IEP team documented that, while the quality of his handwriting is "at times impacted" by the mild tremor, the student is successfully able to perform classroom tasks. There is no documentation that the team considered whether the student's functional skills were impacted by his weakened muscle tone and whether that could be addressed through the provision of special education and related services.
19. The IEP developed in May 2018 reflects that the support provided to the student may include adaptive aids that permit the student to accomplish tasks "despite shaky hands" and pacing strategies or interventions that improve the student's writing stamina.

### **Speech/Language Skills**

20. The August 2017 IEP includes a speech and language articulation goal and a fluency goal that addresses stuttering. The August 2017 IEP requires four (4) thirty (30) minute sessions per month of speech/language therapy as a related service, in a separate special education classroom.
21. At the time that the August 2017 IEP was developed, the IEP team reviewed the November 2016 report of an independent speech/language assessment. The report documents that the student has a "mild to moderate articulation and phonological disorder." The report includes recommendations for specific supports and services, including speech/language therapy services twice per week.
22. There is documentation that the August 17, 2017 IEP team considered the assessment report. However, there is no documentation that the IEP team accepted or rejected the recommendations for services and supports.
23. On August 22, 2017, the complainant sent an electronic mail (email) message to the school staff requesting an increase in the speech/language therapy sessions to twice a week, for thirty (30) minute sessions.
24. On September 12, 2017, the IEP team convened and agreed to increase the speech/language therapy services to eight (8) times per month, in a separate special education classroom. However, due to concerns about the student's attention, the IEP team reduced the length of the sessions from thirty (30) minutes to fifteen (15) minutes. These changes are documented in the amended IEP, dated September 13, 2017.

XXX

Ms. Trinell Bowman

July 6, 2018

Page 5

25. On October 10, 2017, the IEP team convened. The IEP team discussed that, based on the data collection, the student exhibited “very few stutter-like disfluencies” and that the student’s articulation errors “do not appear to be negatively impacting him academically or socially.” The IEP team decided to discontinue the speech fluency goal, and to decrease the speech/language direct services to six (6) fifteen (15) minute sessions per month. However, the team added a supplementary support to the IEP requiring a monthly consultation by a speech/language therapist to monitor the frequency of the student’s disfluencies.
26. On May 31, 2018, the IEP team convened. The complainant expressed concern that the student is not able to generalize his articulation skills and strategies outside of speech/language therapy. The IEP team agreed to conduct observations in both structured and unstructured environments, outside of the speech/language therapy room.
27. The IEP team also decided that the student requires two (2) of the six (6) monthly sessions of speech/language services to be provided in a general education classroom to focus on generalizing his skills in conversational speech. The complainant disagreed and requested that the student be provided with four (4) sessions of speech/language therapy in a general education classroom and four (4) sessions in a separate special education classroom, for a total of eight (8) sessions of services per month. The Prior Written Notice (PWN) of the decisions made at the May 31, 2018 IEP meeting documents that the team’s decision was based on data demonstrating that the student had been able to master the correct articulation of three (3) of four (4) targeted sounds with the provision of six (6) sessions per month of speech and language therapy services, and the determination that the same level of services was appropriate to address the newly revised speech articulation goal requiring mastery of only three (3) target sounds.

#### **Health-Related Needs**

28. On September 12, 2017, the IEP team convened. The complainant reported that, during a recent sleep study, the student had several intracranial seizures lasting from five (5) seconds to one (1) minute. The IEP team determined that the student requires a Health Care Plan in order to address sensory needs, body temperature regulation, and the need for bathroom accommodations, to be developed by the school nurse.
29. There is documentation that a Health Care Plan was developed by the school nurse in September 2017. The Health Care Plan outlines fifteen (15) specific interventions to address the student’s poor fine motor skills as related to hygiene, temperature imbalance due to sensory sensitivities, and auditory overstimulation. Among the interventions is the requirement that the student be allowed to go to the health room for monitoring of his vital sounds if needed for dizziness, lightheadedness, and a flushed face.

XXX

Ms. Trinell Bowman

July 6, 2018

Page 6

30. Although there is documentation that the school nurse initiated the Health Care Plan on September 13, 2017, there is no documentation that the IEP was revised to reflect the student's need for the Health Care Plan.
31. On October 10, 2017, the IEP team reviewed the results of an electroencephalography (EEG)<sup>1</sup> showing "significant spikes in [the student's] parietal lobe, frontal lobe, occipital lobe, and temporal lobe" and the possibility of an increased risk for focal seizures.
32. On May 31, 2018, the IEP team convened. The complainant reported the test results of the most recent EEG had not been received yet. She reported being told that the student's heart "is slowing down at times," and that he will appear tired, report that his heart hurts, or throw up when the slowing occurs. The complainant requested that the student be escorted by an adult "in case of a cardiac event."
33. The Health Care Plan was revised on May 31, 2018, to reflect that the student is to be permitted to visit the health room with adult supervision, and that the nurse should be called to pick the student up with a wheelchair in the event of dizziness, lightheadedness, flushed face, chest pain, heart pain or difficulty breathing, and the Health Care Plan was added to the IEP.
34. There is no documentation that the lack of the Health Care Plan on the IEP negatively impacted the student's ability to access instruction.

## **CONCLUSIONS:**

### **Social, Emotional and Behavioral Functioning**

Based on the Findings of Facts #1 - #9, the MSDE finds that the IEP has addressed the student's identified social, emotional, and behavioral needs in accordance with 34 CFR §300.324.

Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

### **Attention, Concentration, and Executive Functioning**

Based on the Findings of Facts #1 - #3, #10, and #11, the MSDE finds that, while the IEP team has identified needs in the area of attention, concentration and executive functioning, and included supports in the IEP to address these needs, it did not consider recommendations for specific services that were contained in the assessment date, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

---

<sup>1</sup> This is a test that measures brain waves and evaluates brain disorders.

### **Fine Motor Skills**

Based on the Findings of Facts #12 - #19, and #29, the MSDE finds that, while the IEP has included supports to assist the student with handwriting tasks, the IEP team has not considered whether the student's functional skills, such as dressing and toileting, are impacted by low muscle tone and whether this can be addressed through special education and related services, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation

### **Speech/Language Skills**

Based on the Findings of Facts #20 - #22, the MSDE finds that, on August 17, 2017, the IEP team did not consider the recommendations for services contained within the assessment data, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts #23 - #27, the MSDE finds that the IEP team subsequently considered the student's need for speech/language services, and made decisions that are consistent with the data. Based on the Finding of Fact #26, the MSDE finds that the IEP team is continuing to collect data in order to address the student's speech/language needs. Therefore, no student-specific corrective action is required in this area.

### **Health-Related Needs**

Based on the Findings of Facts #28 - #33, the MSDE finds that the IEP did not reflect the IEP team's decision that the student requires a Health Care Plan until May 31, 2018, in accordance with 34 CFR §§300.101, .320, .323, and .324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Finding of Fact #34, the MSDE finds that the violation did not negatively impact the student's ability to benefit from the education program. Therefore, no student-specific corrective action is required in this area.

### **CORRECTIVE ACTIONS/TIMELINE:**

#### **Student-Specific**

The MSDE requires the PGCPS to provide documentation by the start of the 2018-2019 school year that the IEP team has convened and taken the following actions:

- a. Accepted or rejected the specific recommendations for services to address the student's needs in attention, concentration, and executive functioning contained in the private assessment data, and revised the IEP, as appropriate;

XXX

Ms. Trinell Bowman

July 6, 2018

Page 8

- b. Determined whether the student has functional skills needs, including in the areas of dressing and toileting, due to the impact of low muscle tone on fine motor skills, and if so, has revised the IEP, as appropriate, to address those needs;
- c. Determined the compensatory services to be provided if the IEP is revised as a result of the team's review.

### **School-Based**

The MSDE requires the PGCPS to provide documentation by November 1, 2018 of the steps it has taken to ensure that the violations do not recur at the XXXXXXXXXXXX. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

Documentation of all corrective action taken is to be submitted to this office to:  
Attention: Chief, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

### **TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both the complainant and the PGCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirement as reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parties maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement,



XXX

Ms. Trinell Bowman

July 6, 2018

Page 9

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 Special Education/  
Early Intervention Services

MEF/ksa

c: Kevin Maxwell  
Gwen Mason  
Trinell Bowman  
Barbara VanDyke  
XXXXXXXX  
Dori Wilson  
Anita Mandis  
K. Sabrina Austin  
Nancy Birenbaum