



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

June 10, 2019

Ms. Jessica Williams
Education Due Process Solutions
711 Bain Drive #205
Hyattsville, Maryland 20725

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

RE: XXXXX
Reference: #19-148

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 of the final results of the investigation.

ALLEGATION:

On April 11, 2019, the MSDE received a complaint from Ms. Jessica Williams, hereafter, the complainant" on behalf of Ms. XXXXXXXXXXXX and 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 has been evaluated and identified as a student with a disability since April 11, 2018, in accordance with 34 CFR § 300.111.

BACKGROUND:

The student is nine (9) years old and is identified as a student with a Specific Learning Disability, under the IDEA.

The student has an Individualized Education Program (IEP) that requires the provision of special education and related services. The student attends XXXXXXXXXXXXXXXX in the Prince George's County Public Schools.

FINDINGS OF FACTS:

1. On December 12, 2018, when the student was in the third grade, the complainant submitted a referral for an IDEA evaluation because the student was easily distracted and had below grade level reading comprehension skills.
2. There is documentation within a log of parent contact that on January 28, 2019, the IEP Chairperson contacted the student's mother, informing her that in response to her referral, an IEP team was scheduled for February 21, 2019.
3. On February 21, 2019, the IEP team reviewed data indicating that, since the prior school year, when in the second grade, the student received response to intervention (RTI) Tiers One (1) and Two (2) integrated systems of supports.¹ This included re-teaching of concepts, provision of instruction within small groups, close tracking and monitoring of his progress, and additional resources such as, supplemental reading, Leveled Literacy Intervention and I-Ready Math Intervention classes, three (3) to four (4) times per week.
4. The student was also provided with preferential seating, graphic organizers, a peer buddy, and 1:1 learning opportunities. On the first and second grade report cards, the student's reading was indicated as below grade level. The student received letter grades of A and B in all subject areas except math which he received a grade of C on his second grade report card.
5. The IEP team also reviewed the student's educational data from the reading intervention that was being used. The Developmental Reading Assessment (DRA) scores indicated that the student obtained:
 - A beginning first (1) grade level in October 2017;
 - A middle (1) first grade level in January 2018;

¹ Tier 1 and 2 interventions are part of the RTI instructional decision-making model, (and not a placement model), which is a multi-tiered system approach to the early identification and support of students with learning needs (<https://www.specialedconnection.com> and *Implementing Specially Designed Instruction Through an Integrated Tiered System of Supports, MSDE, Division of Early Intervention and Special Education Services, DRAFT, January 2019, www.marylandpublicschools.org*).

- A beginning (2) second grade level in May 2018; and
 - A middle (2) second grade level in February 2019.
6. The IEP team also considered the following:
- a. The Measures of Academic Progress (MAP) assessment scores:
 - Grade 2 (2017 – 2018 school year)
 - (169 Fall 2017; 175 Winter 2018; 173 Spring 2018)
 - Beginning second (2nd) grade level

 - Grade 3 (2018 – 2019 school year)
 - (163 Fall 2018; 178 Winter 2019; 189 Spring 2019)
 - Beginning third (3rd) grade level
 - b. The I-Ready Diagnostic Results:
 - Reading January 2019 first grade (452) on grade level (511-602)
 - Reading May 2019 early third grade (513) on grade level (511-602)

 - Math January 2019 second grade (413) on grade level (449-516)
 - Math May 2019 second grade (426) on grade level (449-516)
 - c. The Reading Inventory Test History:
 - September 2018 first (1%) percentile rank
 - May 2019 eighteen (18%) percentile rank
7. On February 21, 2019, the IEP team recommended an evaluation be conducted in the areas of academics, psychological, including social/emotional assessments, speech/language, a classroom observation, and occupational therapy assessment to address visual motor integration concerns. The recommendation was based on the parent's concern that the student continued to have challenges in the areas of reading comprehension and fluency skills and math problem solving. The IEP team requested consent to conduct an evaluation and the student's mother signed consent for the assessments on that same day.
8. The PGCPS reports that it uses evaluative data and appropriate assessments to determine whether a student does not make sufficient progress to meet age or State-approved grade-level standards when using a process based on the student's response to evidence-based intervention.

9. On March 28, 2019, the IEP team met, reviewed the results of the assessments, and determined that the student would be identified as a student with a disability under the IDEA based upon the student's difficulty with reading and math despite interventions. An IEP was developed for retaining and recalling information, reading comprehension, phonics, and math word problems.
10. On April 24, 2019, the occupational therapy assessment report was reviewed by the IEP team and indicated that the student has decreased attention span to initiate and complete tasks, challenges with organizational skills and following directions skills. As a result, the team determined that the student is less likely to keep pace with classroom demands and advocate for himself due to sensory processing behaviors which impact his educational ability. In response, the IEP team recommended that the student receive forty (40) minutes of occupational therapy per month.

DISCUSSION/CONCLUSIONS:

In this case, the complainant alleges that the PGCPS failed to promptly initiate a request for initial evaluation upon receipt of the parent's referral.

Based on the Findings of Facts #1 - #10, the MSDE finds that the PGCPS did not ensure that the initial evaluation of the student was completed within timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06 (A). Therefore, the MSDE does find that a violation occurred with respect to this allegation which resulted in a delay of twelve (12) school days in identifying the student and developing the IEP.

In this case, the complainant also alleges that the PGCPS failed to comprehensively evaluate in every area of suspected disability of the student. According to the complainant, the student's parent requested that an occupational therapy assessment be completed and because the occupational therapist was not in attendance at the meeting, the IEP team refused to conduct an assessment in that area.

Based on the Findings of Facts #7, #8 and #10, the MSDE finds that the PGCPS ensured that the student was assessed in all areas related to the suspected disability, including occupational therapy, and input from the parent.

Based on the Finding of Fact #10, the MSDE further finds that the student's occupational therapy needs were identified and addressed with the IEP. Therefore, this office does not find a violation occurred with respect to this aspect of the allegation, in accordance with 34 CFR §300.304.

In this case, the complainant further alleges that the PGCPS should have suspected the student of having a disability prior to the parent's referral.

Based on the Findings of Facts #3 - #6, the MSDE finds that the documentation indicates that the student was making steady progress towards narrowing the achievement gap by the performance, data, and system of supports.

Therefore, this office finds that the PGCPS determination decision to continue to provide supports in the general education program was consistent with the data, in accordance with 34 CFR §300.111, and does not find a violation occurred with respect to this aspect of the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by October 1, 2019 that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the delay of twelve (12) school days in identifying the student and developing the IEP and has a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

School-Based

The MSDE requires the PGCPS to provide documentation by December 1, 2019 of the steps it has taken to ensure that the XXXXXXXXXXXXXXXXXXXX staff complete initial evaluations in a timely manner. 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.

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.

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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The student's parents and the school system 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 and Appropriate Public Education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA.

Ms. Jessica Williams
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June 10, 2019
Page 6

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 and
Special Education Services

MEF:sf

c: XXXXXX
 Monica Goldson
 Gwendolyn Mason
 Barbara Vandyke
 XXXXXX
 Marcella E. Franczkowski
 Anita Mandis
 Sharon Floyd