



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

December 14, 2020

Ms. Debra B. Martin
Best Solutions Educational Service
1300 Mercantile Lane Suite 129-2
Largo, Maryland 20774

Ms. Trinell M. Bowman
Associate Superintendent
for Special Education
Prince George's County Public Schools
John Carroll Administration Building
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #21-027

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.

ALLEGATIONS:

On October 14, 2020, the MSDE received a complaint from Ms. Debra B. Martin, hereafter, “the complainant,” on behalf of Ms. [REDACTED] 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 following allegations:

1. The PGCPS has not ensured that the student’s needs in the areas of fine motor skills, sensory processing, assistive technology, speech/language, written language, dyslexia, dyscalculia, as well as those arising out of Attention Deficit Hyperactivity Disorder (ADHD), have been identified and addressed through the Individualized Education Program (IEP), since October 14, 2019, in accordance with 34 CFR §§300. 301 -.304, .320, 324, and .503. This includes:

- a. The PGCPS has not ensured that the IDEA evaluation was sufficiently comprehensive to identify all of the student's needs;
 - b. The PGCPS has not ensured that the IEP includes a statement of the student's present levels of academic achievement and functional performance; and
 - c. The PGCPS did not follow proper procedures when responding to a request for an IEP team meeting in January 2020.
2. The PGCPS did not provide a copy of the IEP within five (5) business days after the May 2020 IEP team meeting, in accordance with COMAR 13A.05.01.07D.
 3. The PGCPS has not ensured that the student has been provided with the special education instruction and supplementary aids and services required by the IEP during the 2019 – 2020 school year, in accordance with 34 CFR §§300.101 and .323. This includes:
 - a. The student has not been provided with a home-school communication system;
 - b. The student has not been provided with an assistive technology (AT) device;
 - c. The student has not been provided with the special education instruction needed to address four (4) out of eight (8) IEP goals; and
 - d. The student has not been provided with a reading intervention program.

BACKGROUND:

The student is eight (8) years old, is identified as a student with a Specific Learning Disability (SLD) under the IDEA and has an IEP that requires the provision of special education services.

During the 2019-2020 school year, the student was enrolled at [REDACTED] where he attended until the March 2020 closure of school buildings and initiation of virtual learning due to the COVID-19 pandemic. Since the start of the 2020-2021 school year, the student has been enrolled at [REDACTED]

ALLEGATIONS #1 AND #2: IEP DEVELOPMENT AND PROVISION OF THE IEP

FINDINGS OF FACTS:

1. The IEP was developed on December 11, 2019 as an initial IEP following an IDEA evaluation that was completed on November 13, 2019. That evaluation was conducted as a result of a written referral made by the student's parent, in which she expressed concerns about the student's reading, writing, and math performance, in both English and Spanish, while the student was attending [REDACTED]

2. When conducting the IDEA evaluation, the IEP team also considered information that the student previously participated in a reading intervention and had previously been exited due to meeting grade level standards, but that he was no longer reading on grade level. The IEP team further considered information that the student was struggling academically in written language and math in both languages, and that the teacher observed him to write his b's, d's, and 9's backwards.
3. Based on the data, the IEP team suspected a SLD in the areas of reading fluency and comprehension, phonics and phonetic awareness, vocabulary development, written language mechanics and expression, and math calculation and problem solving. The IEP team recommended assessments in the areas of cognitive ability, and reading, math, and written language functioning, but not a classroom observation.
4. On November 13, 2019, the IEP team considered the following data:
 - a. The report of the psychological assessment, which reflected that the student has "average" to "above average" reasoning, "average" processing speed, and "low average" working memory abilities. The report indicated that students with weaknesses in working memory may struggle with orally presented steps, solving math problems and comprehension of reading passages. The report recommendations included chunking of information, provision of repetition of directions and assessments administered in a small group. The report stated that "the basic psychological processes that are deficits for the student are working memory as well as phonological awareness (specifically phoneme segmentation)."
 - b. The psychological assessment report included a review of a letter provided by the parent from a private neurodevelopmental pediatrician. The letter reflected that, based on data provided by the parent and a teacher, rating scales indicated that the student exhibited symptoms of inattention and hyperactivity.
 - c. The letter from the private neurodevelopmental pediatrician also stated that the student was seen by a child neurologist, who diagnosed the student with a sensory processing disorder. The report of the psychological assessment states that the diagnosis was not obtained from a comprehensive neurological assessment.
 - d. The educational assessment report, which reflected that the student had "low average" to "average" skills in the areas of broad reading, math, and written language. The educational assessment report indicated that the student has weaknesses in reading, spelling, and written language mechanics, and that he was performing one (1) year below grade level expectations in all areas of academics. The recommendations in the report included strategies for spelling, reading, and accommodations to improve working memory skills.

5. There was no information or data that the student had speech/language or fine motor skills needs at the time of the evaluation.
6. Based on the data, the IEP team identified the student with a SLD, finding a disorder in the basic psychological processes involved in working memory and phonological awareness, specifically phoneme segmentation, which impacted all areas of academics. The team found that the student does not achieve adequately for his age or to meet grade level standards in the areas of reading fluency, reading comprehension, written expression and mathematics problem solving.
7. There is no documentation that the IEP team considered whether the student had needs related to inattention and sensory processing, or whether additional data was needed to determine whether needs existed in these areas based on the letter from the private neurodevelopmental pediatrician.
8. On December 11, 2019, the IEP team reconvened and developed the initial IEP. The IEP includes a description of the student's standardized assessment performance in reading and math, but not written language, and does not include a statement of the student's grade level performance in reading or math.
9. The December 11, 2019 IEP includes annual goals for the student to improve his performance in the areas of phonemic awareness, reading phonics, fluency and comprehension, math problem solving, and cognitive skills. It does not include a goal for the student to improve written language skills.
10. The December 11, 2019 IEP required the provision of special education instruction to assist the student in achieving the annual goals. It also required the accommodations of a human reader, small group instruction opportunities for the student to read aloud to himself, separate location for assessments, extended time, and reduced distractions to self and other students. The IEP states that additionally, the student would participate in a reading intervention to address areas of weakness identified in the data beginning on January 6, 2020.
11. The December 11, 2019 IEP documents that the team decided that the student requires a computer on a daily basis to take notes, copy information from the board and complete class assignments for use during Spanish and English classes due to his difficulty with writing.
12. On February 24, 2020, the student's parent requested an IEP team meeting to address her concern about an IEP goal report she received, dated February 7, 2020. This report stated that several of the goals had not yet been introduced, and that the student was not making sufficient progress on the remaining goals.
13. On March 10, 2020, the student's parent requested a reevaluation, indicating that she did not believe that the student's needs had been identified and addressed in a comprehensive

manner. She requested assessments in the areas of AT, fine motor skills, and speech/language functioning, and expressed her belief that the IEP did not address the student's need for instruction using programs designed to address the needs of students with dyscalculia, dyspraxia, and dyscalculia. She further expressed her belief that the IEP does not address the student's inattention and sensory needs.

14. An IEP team meeting was scheduled for March 25, 2020 to address the parent's concern.
15. On March 15, 2020, school buildings were closed as a result of the COVID-19 pandemic. There is no documentation that the IEP team convened as planned on March 25, 2020, and there is no documentation that the parent was offered a virtual IEP team meeting at that time.
16. On April 8, 2020, the special education teacher met with the parent to review a plan for the provision of virtual learning. The plan consisted of the provision of instruction on goals for improving reading and math skills, the provision of reading and math interventions, and various accommodations and supplementary aids, including checks for understanding, feedback, alternative ways to demonstrate learning, and provision of teacher notes. There is documentation that the parent expressed concerns about the plan and the fact that the IEP team did not meet in March 2020, as scheduled. The parent also expressed concern that when interventions are provided, the student misses instruction in academic areas. She further expressed concern that there was insufficient communication between home and school.
17. The IEP team did not convene to address the parent's concerns until May 29, 2020. At that time, the teacher reported that the student was not making progress on the goals. The IEP team added reading and math goals, along with goals for the student to improve written language mechanics and memory, as well as an increased amount of special education instruction to assist the student in achieving the goals. In order to address the parent's concern that the student improve his handwriting skills, the IEP team decided to revise the IEP to no longer require the use of an AT device so that he would have to use handwriting.
18. There is no documentation that, at the May 29, 2020 IEP team meeting, the team considered the parent's March 10, 2020 concerns about the student's need for instruction using programs designed for students with dyslexia, dyscalculia, and dyspraxia. Further, there is no documentation that the team considered the parent's March 10, 2020 concerns about the student's inattention and sensory processing needs. In addition, there is no documentation that the team considered the parent's request for assessments of the student's AT needs and needs in the areas of fine motor and speech/language functioning. The team summary documents that the team decided to reconvene at the beginning of the next school year to consider reevaluation.

19. There is no documentation that the IEP was provided to the parent within five (5) business days of the May 29, 2020 IEP team meeting. The IEP was provided to the parent in September 2020.
20. On June 12, 2020, the IEP team reconvened at the parent's request. At the meeting, the parent reiterated her concerns about the student's inattention. The team considered information from the student's Spanish teacher that he was not meeting with success due to his lack of focus and participation and that he was not completing assignments. The team also considered information from the special education teacher that the student was able to remain focused and complete assignments when placed in a small group for special education instruction. Based on the information from the special education teacher, the IEP team decided to increase the amount of special education instruction provided in small group settings.
21. At the June 12, 2020 IEP team meeting, the parent reported that the student receives private occupational therapy (OT) to address the fine motor skills that impact handwriting. The student's parent reiterated her request for assessments of the student's fine motor skills and sensory needs, and her request for instruction designed to address the needs of students with dyslexia. While the IEP team recommended an OT assessment and the provision of strategies to assist the student in the classroom, there is no documentation that the team considered the request for instruction designed to address the needs of students with dyslexia.
22. At the June 12, 2020 IEP team meeting, the parent also expressed concern that the IEP does not include specific information about the student's present grade levels of performance. The IEP team decided to wait until the start of the 2020-2021 school year to revise the IEP to include this information.
23. On September 10, 2020, the IEP team considered data on the student's progress and decided to conduct a reevaluation. The team decided to obtain additional information on the impact of ADHD and anxiety, and frustration about academic performance, the need for AT, the presence of dyslexia, the student's speech/language performance, and to obtain updated information about his cognitive ability. The team also decided to start a trial use of text-to-speech technology, and to make a referral for an OT consultation.
24. At the September 10, 2020 IEP team meeting, the team revised the IEP to include a statement of the student's present grade levels of performance in each area. The IEP team also revised the written language goal based on the student's performance and added supplementary aids to support his writing skills. The student was also provided with a computer to take notes and copy from the board.
25. On October 20, 2020, the IEP team reconvened and considered information from the OT consultation that confirmed the need for additional assessments of the student's fine motor skills. Based on that information, the team again recommended that an OT assessment be conducted.

26. At the October 20, 2020 IEP team meeting, the team also considered information from the AT trial which indicated that the student demonstrates challenges with written expression, reading, and expressing himself independently through writing. The team also considered information that the student had benefitted from using a computer, the provision of teacher notes, checklists, an alphabet chart and chunking of texts. Based on that information, the team decided that the student requires visual aids, digital editing features, word prediction, dictation, masking, and digital highlighting that will support focusing and retention, support writing skills, and independence with the writing process throughout the day.
27. There is no documentation that the OT assessment, which was first recommended on June 12, 2020 has, to date, been conducted.
28. There is no documentation that the IEP team obtained additional data on the impact of ADHD, or whether the student has needs related to dyslexia or speech/language needs, as recommended by the team on September 10, 2020.

CONCLUSIONS:

Allegation #1 IEP Development

Based on the Findings of Facts #1-#3, the MSDE finds that the initial IDEA evaluation was not sufficiently comprehensive because the IEP team did not obtain data from a classroom observation and consider when the student has needs related to inattention and sensory processing, in accordance with 34 CFR §§300.301 - .311.

Based on the Findings of Facts #13, #22, and #24, the MSDE finds that the IEP did not include a statement of present levels of performance from its initial development on December 11, 2019 until September 10, 2020, in accordance with 34 CFR §300.320.

Based on the Findings of Facts #1-#4, #6, #8, and #9, the MSDE finds that the IEP did not address the student's identified needs in the area of written language from initial development on December 11, 2019 until May 29, 2020, in accordance with 34 CFR §300.324.

Based on the Findings of Facts #9, #12, #17, and #23, the MSDE finds that there was a delay in addressing the student's lack of progress towards achievement of the annual IEP goals from February 24, 2020 to May 20, 2020, in accordance with 34 CFR §300.324.

Based on the Findings of Facts #13, #17, and #26, the MSDE finds that there was a delay in addressing the parent's concerns about the student's need for AT from March 10, 2020 to October 20, 2020, in accordance with 34 CFR §300.324.

Based on the Findings of Facts #4, #7, #13, #21, #23, #25, and #27, the MSDE finds that there was a delay in addressing the parent's concerns about the student's fine motor and sensory needs from March 10, 2020 to June 12, 2020, and that the IEP team has not yet obtained data about the

student's needs in these areas despite recommending an OT assessment since June 12, 2020, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.06.

Further, based on the Findings of Facts #13, #18, #21, #23, and #28, the MSDE finds that the IEP team has not addressed the parent's concern about the need for instruction designed to address dyslexia, dyspraxia, and dyscalculia, since March 10, 2020, in accordance with 34 CFR §300.324.

In addition, based on the Findings of Facts #5, #13, and #28, the MSDE finds that the IEP team has not obtained data to identify whether the student has needs in the area of speech/language in response to the parent's concerns, since September 10, 2020, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.06.

Based on the above, the MSDE finds that violations occurred with respect to this allegation and that, as a result, the PGCPS has not ensured that the Student has been provided with a Free Appropriate Public Education (FAPE) through an IEP that is designed to all address all of his needs, since December 11, 2019, in accordance with 34 CFR §§300.101 and .320.

Allegation #2 Provision of IEP

Based on the Finding of Fact #19, the MSDE finds that the PGCPS did not ensure that the parent was provided with the IEP within the required timelines following the May 2020 IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: IEP IMPLEMENTATION

FINDINGS OF FACTS:

29. The IEP does not require a home-school communication system.
30. There are observation reports that document the student was provided with a computer to use to take notes, as required by the IEP, during the 2019-2020 school year.
31. There are reports of the student's progress towards achievement of the annual goals, dated February 7, 2020, which document the provision of special education instruction to address the annual IEP goals. There are electronic mail messages between the student's teacher and parent which document the provision of special education instruction to address the goals from April 27, 2020 to June 9, 2020.

32. There is no documentation of the reading intervention provided to the student from January 6, 2020 to February 14, 2020.

CONCLUSIONS:

Based on the Finding of Fact #29, the IEP does not require a home-school communication system, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds no violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #30, there is documentation that the student was provided with AT during the 2019-2020 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds no violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #31, there is documentation of the provision of special education instruction from April 27, 2020 to June 9, 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds that no violation occurred with respect to this aspect of the allegation.

However, based on the Finding of Fact #32, the MSDE finds there is no documentation of the reading intervention provided to the student, from January 6, 2020 to February 14, 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds that a violation occurred with respect to this aspect of the allegation for this time period.

CORRECTIVE ACTIONS/TIMEFRAMES:

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.¹

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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.

technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770 and nancy.birenbaum@maryland.gov.

Student Specific:

The MSDE requires the PGCPS to provide documentation that the IEP team has completed the following:

- a. Ensured that all of the parent's concerns are considered, all of the student's needs identified, and the IEP is revised to address all of his needs consistent with the data; and
- b. Determined the compensatory services or other remedy to redress the violations identified within this Letter of Findings.

School Based:

The MSDE requires the PGCPS to provide documentation of the steps taken to ensure that violations do not recur at [REDACTED] and description of how the school system will monitor to ensure the effectiveness of those steps.

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

TECHNICAL ASSISTANCE:

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 timeframes 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 complainant and the school system maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation,

² The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

Ms. Deborah B. Martin
Ms. Trinell Bowman
December 14, 2020
Page 11

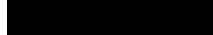
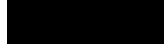
placement, or provision of a FAPE for the student, including issues subject to this State complaint investigation, consistent with the IDEA.

Sincerely,

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

MEF/sf

c:


Monica Goldson
Barbara Vandyke

Dori Wilson
Anita Mandis
Sharon Floyd
Nancy Birenbaum