



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

March 12, 2021

Ms. Debrah Martin  
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Best Solutions Educational Services  
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Ms. Trinell Bowman  
Director of Special Education  
Prince George's County Public Schools  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: [REDACTED]  
Reference: #21-045

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 January 13, 2021, the MSDE received a complaint from Ms. Debrah Martin, hereafter, "the complainant," on behalf of the above-referenced student and his mother, Ms. [REDACTED]. 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 above-referenced student.

The MSDE investigated the allegations that the PGCPS did not follow proper procedures when responding to written referrals made on January 15, 2020 and in October 2020 for an IDEA evaluation, in accordance with 34 CFR §§300.301 - .304, .321, .322, .503, .504 and COMAR 13A.05.01.04 and .06.

**BACKGROUND:**

The student is sixteen (16) years old and has not been identified as a student with a Disability under the IDEA.

The student attended [REDACTED] School until the March 2020 closure of school buildings and initiation of virtual learning due to the national COVID-19 pandemic.

### **FINDINGS OF FACTS:**

#### **January 15, 2020 Referral for IDEA Evaluation**

1. On January 15, 2020, the student's mother made a written referral for the student for an IDEA evaluation. The referral states that her concern is that the student's grades had declined at the end of each quarter, and that he had been "diagnosed with a disability through his doctor."
2. On February 20, 2020, the Individualized Education Program (IEP) team convened to consider the referral. The written invitation to the meeting states that the purpose of the meeting was to respond to the mother's referral for an IDEA evaluation.
3. There is documentation that the student's mother was provided with notice of the procedural safeguards on February 20, 2020. This documentation includes the signature of the student's mother indicating her receipt.
4. There is documentation that the IEP team that convened on February 20, 2020 included participation from the school's administrator, psychologist, special educator, a general education teacher of the student, the student, and his mother.
5. The documentation of the February 20, 2020 IEP team meeting states that the IEP team considered information from the student that he feels that he is not achieving academic success in some of his classes. The team considered information from the student's teachers that the student is able to use the information provided and implement concepts taught, that his reading comprehension and math abilities are at grade level, and that if he is having difficulty with understanding what is presented, he should advocate for himself by asking for assistance. The documentation does not reflect that the IEP team considered information from the student's mother. The team decided that, based on the information, it did not suspect a disability and proposed providing the student with strategies for staying on task.
6. While the IEP team meeting was held February 20, 2020, the documentation indicates that the student's mother was not provided with written notice of the IEP team's decisions from that meeting until December 11, 2020. However, the notice provided did include a description of the decisions, the basis for the decisions, the data used in making the decisions, the options considered, a statement of the parent's procedural safeguards, and sources for the student's mother to contact to obtain assistance in understanding her rights.

### **October 7, 2020 Referral for IDEA Evaluation**

7. On October 7, 2020, the student's mother made another written referral for the student for an IDEA evaluation. The referral states concerns related to the student's lack of motivation to complete class and homework, and to attend school.
8. On November 20, 2020, an IEP team convened to consider the referral. The written invitation to the meeting states that the purpose of the meeting was to respond to the mother's request for an IDEA evaluation.
9. The documentation of the November 20, 2020 IEP team meeting states that the IEP team considered information from the student's mother, but does not reflect the content of that information. The team considered information from the student's teachers that the student had been "struggling with the first quarter" of the 2020 – 2021 school year. The team decided that, based on the information, the student was suspected of having a Specific Learning Disability (SLD). The team also decided that assessments were needed in the area of cognitive functioning, academic performance, and emotional needs but that those assessments could not be conducted until the school buildings reopened for face-to-face interaction.
10. The written notice of the team's November 20, 2020 decisions did not include information that the team decided to conduct an assessment of the student's emotional needs.
11. On January 25, 2021, the school staff requested consent from the student's mother to begin conducting assessments. When she returned the consent form that she signed on January 26, 2021, she expressed concern that student's emotional needs was not being assessed and that the team was not considering a disability related to the student's ADHD, and requested another IEP team meeting.
12. On February 23, 2021, the IEP team reconvened. At that time, the student's mother provided documentation that the student was diagnosed with ADHD. Based on the data, the team decided to suspect an Other Health Impairment as well. The team acknowledged its oversight when it omitted the need for an assessment of the student's emotional needs at the previous meeting, and provided the parent with corrected documentation.
13. There is documentation dated February 26, 2021, reflecting that the student's mother was provided with written notice of the decisions made by the IEP team on February 23, 2021. The documentation includes a description of the decisions, the basis for the decisions, the data used in making the decisions, the options considered, a statement that the student's mother has protection under the procedural safeguards, and sources for the student's mother to contact to obtain assistance in understanding her IDEA procedural rights.

14. There is no documentation, to date, that the assessments recommended by the IEP team, on November 20, 2020 have been completed in order to determine whether the student is a student with a disability under the IDEA.

## **CONCLUSIONS:**

### **Response to the January 15, 2020 IDEA Referral**

#### **IEP Written Notice Containing the Purpose of the Meeting**

Based on the Findings of Facts #1 and #2, the MSDE finds that the written notice of the IEP meeting invitation contained information about the purpose of the IEP team meeting, in accordance with 34 CFR §300.322. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

#### **Required Participants at the IEP Team Meeting**

Based on the Finding of Fact #4, the MSDE finds that the required participants attended the IEP team meeting on February 20, 2020, in accordance with 34 CFR §300.321. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

#### **Proper Procedures when Conducting an Evaluation Consistent with the Data**

Based on the Findings of Facts #1 and #5, the MSDE finds that, while there was no documentation of the student's ADHD diagnosis for the team to consider at that time, the documentation does not reflect that the team considered the concerns of the parent on January 15, 2020, in accordance with 34 CFR §§300.301 - .304, .321, .322, and COMAR 13A.05.01.04 and .06. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

#### **Provision of Notice of the Procedural Safeguards**

Based on the Finding of Fact #3, the MSDE finds that there is documentation that the parent was provided with notice of the procedural safeguards, in accordance with 34 CFR §§300.301 - .304, .321, .322, .503, .504 and COMAR 13A.05.01.04 and .06. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

#### **Provision of IEP Prior Written Notice**

Based on the Finding of Fact #6, the MSDE finds that PGCPS did not provide the parent with IEP prior written notice of the February 20, 2020 IEP team meeting that contained all the contents required by the IDEA in a timely manner, in accordance with 34 CFR §300.504. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

## **Response to the October 7, 2020 IDEA Referral**

### **IEP Written Notice Containing the Purpose of the Meeting**

Based on the Findings of Facts #8, the MSDE finds that the IEP written notice contained information written notice of the IEP meeting invitation about the purpose of the IEP team meeting, in accordance with 34 CFR §300.322. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

### **The IEP Team's Consideration of the Student's Emotional Needs at the November 20, 2020 IEP Team Meeting**

Based on the Findings of Fact #9 - #12, the MSDE finds that the PGCPs considered the student's emotional needs at the November 20, 2020 IEP team meeting, in accordance with 34 CFR §§300.301 - .304, and COMAR 13A.05.01.04 and .06. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

### **Proper Procedures when Conducting an Evaluation Consistent with the Data**

Based on the Findings of Facts #8 - #12, the MSDE finds that the PGCPs followed proper procedures, consistent with the data, when it was determined that the student required assessments to determine whether he was a student with a disability under the IDEA, in accordance with 34 CFR §§300.301 - .304, .321, .322, and COMAR 13A.05.01.04 and .06. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

However, based on the Findings of Facts #7 - #14, the MSDE finds that the PGCPs did not complete the evaluation in response to the October 7, 2020 within the required timelines, in accordance 34 CFR §§300.301 - .304, .321, .322, .503, .504 and COMAR 13A.05.01.04 and .06. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

### **Provision of IEP Prior Written Notice**

Based on the Findings of Facts #10 and #12, the MSDE finds that the parent was not provided with IEP prior written notice of the November 20, 2020 IEP team meeting that contained all the contents required by the IDEA, in accordance with 34 CFR §300.503, .504, and COMAR 13A.05.01.12. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

## **CORRECTIVE ACTIONS/TIMELINES:**

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.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks 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.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770 or by email at nancy.birenbaum@maryland.gov.

### **Student-Specific**

The MSDE requires the PGCPS to provide documentation that the evaluation has been completed, and that the IEP team has determined whether the student is a student with a disability under the IDEA, consistent with the data.

If the IEP team determines that the student has a disability that requires special education services, the team must also offer the student a Free Appropriate Public Education (FAPE) through an IEP, and determine the compensatory services for the delay in completing the evaluation.

### **School-Based**

The MSDE requires the PGCPS to provide documentation of the steps taken to ensure that the violations do not recur at [REDACTED] School.

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.

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

<sup>2</sup> The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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The parties 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 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 Early Intervention/Special Education Services

MEF:ac

c:

  
Monica Goldson  
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