



Mohammed Choudhury
State Superintendent of Schools

March 25, 2022

Ms. Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

Ms. Trinell Bowman
Associate Superintendent-Special Education
John Carroll Center
1400 Nalley Terrace
Landover, MD 20785

RE: [REDACTED]
Reference: #22-089

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.

ALLEGATIONS:

On January 25, 2022, the MSDE received a complaint from Ms. Jessica Williams, hereafter, “the complainant,” on behalf of 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) addresses the student’s behavioral, attendance, inattentiveness, vision, assistive technology, sensory and medical needs since January 25, 2021¹, in accordance with 34 CFR §§300.101, .320, and .324.

¹ While you allege that the violation occurred prior to this date, only those violations that are alleged to have occurred within one (1) year can be resolved through the State complaint investigations procedure. (34 CFR §300.153)

2. The PGCPS has not followed proper procedures when identifying and evaluating to determine if the student is a student with a disability requiring special education services, under the IDEA, since October 29, 2021, in accordance with 34 CFR §§300.303 - .306, and COMAR 13A.05.01.06.
3. The PGCPS has not ensured that the student's IEP was reviewed and revised, to address his lack of expected progress toward achieving the IEP goals, since January 25, 2021, in accordance with 34 CFR §300.324.
4. The PGCPS did not provide the parent with prior written notice of the team's decision to reject their request for additional assessments, which was made at the IEP team meeting on November 19, 2021, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is four (4) years old and is identified as a student with Developmental Delay (DD) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on June 4, 2021². The IEP reflects that he has identified needs in the areas of pre-academics, medical, vision, adaptive, social emotional/behavioral, expressive and receptive language, gross and fine motor. The IEP includes specialized instruction, supports, related services, and annual goals to improve the student's skills in these areas.
2. The student's present level of performance in the area of social emotional/behavioral needs reflects the student is developing his use of words to express his wants and needs, with adult prompts following directions, demonstrating age appropriate behavior management skills, and initiating social contact with peers in play. The student's pre-academic annual IEP goal states that the student, "will follow routine 1-step directions throughout the instructional day" and "given ample wait time and teacher direction to visually attend" he will independently use picture cards to make requests. Further, the IEP required the provision of accommodations and supports, such as multi-sensory support for expressing "needs/wants", and "adult support", and an occupational therapist consultation to provide services to support his self-regulation while participating in instruction.
3. The student's present level of performance in the area of pre-academics reflects that he needs to "attend to an activity for 1-3 minutes" and attend to a book. The student's annual pre-academic goal states that the student "will follow routine 1-step directions

² The student was not receiving services pursuant to an IEP prior to June 4, 2021.

throughout the instructional day”, and look at a picture book with an adult for one minute. The IEP further requires the provision of accommodations and supports, such as strategies to initiate and sustain attention such as visual cues and close proximity to adults.

4. The student’s present level of performance in the area of fine motor and adaptive skills reflects that he is not “consistently attending to, imitating, or following adult direct tasks.” The student’s annual pre-academic goal states that the student will independently follow routine 1-step directions throughout the instructional day, and “given ample wait time and teacher direction to visually attend”, he will independently use picture cards to make requests.
5. The student’s present level of performance in the area of vision reflects that the student’s performance level is below, he is visually impaired, and wears glasses. The student’s annual pre-academic goal states that “given a book with one or two bright pictures per page, he will look at the book with an adult for one minute” and “given ample wait time and teacher direction to visually attend, the student will independently use picture cards.” The IEP further requires the provision of a monthly consultation from a teacher of the visually impaired with the student and the staff to identify modifications and or accommodations that the student may require to support his visual needs.
6. The student’s IEP reflects that the student requires the use of “low-tech assistive technology devices such as picture symbols to support him when answering questions, making choices, and communicating his wants and needs.” The student’s annual pre-academic goal states “given ample wait time and teacher direction to visually attend, the student will independently use picture cards to make requests during the instructional day.” The IEP further requires the provision of “pictorial directions, picture schedules, and multi-sensory stimuli such as objects and picture cards.”
7. The student’s present level of performance in the area of physical adaptive abilities reflects that he is “significantly delayed.” Specifically, the student has “possible sensory sensitivities related to dressing and grooming routines.” The IEP requires the provision of accommodations to have “immediate access to multi-sensory stimuli to increase the student’s ability to make choices, close proximity to adults, and a consultation with an occupational therapist to address barriers related to sensory and self-regulation.”
8. The student’s present level of performance in the area of health reflects a diagnosis of [REDACTED] with subsequent seizures. The IEP indicates that his performance level is “atypical.” The IEP requires the provision of a consultation with a school nurse. The school nurse will determine if an “emergency care plan is needed, interpret medical reports and consult with the student’s medical team and parents. If medical updates occur the school nurse will make appropriate modifications along with the IEP team.”

9. Reports of the student's progress on IEP goals created on November 16, 2021 and February 2, 2022, reflects the student was not making sufficient progress to achieve his annual goals, in part because the student was "tardy" or missing multiple days of school. While the student's attendance record reflects twenty-six (26) absences between December 22, 2021 and February 23, 2022, there is no documentation that the IEP team convened to address the student's lack of progress towards achieving the annual IEP goals or that the IEP team addressed the student's attendance.
10. On October 6, 2021, a "Notice and Consent for Assessments" form generated by the PGCPS reflects that the IEP team "considered evaluations from Children's National." The form further states that the IEP team "believes additional information is needed to determine how to best support the student in the school setting." The IEP team recommended assessments in expressive and receptive language, adaptive, cognitive, social/emotional, and fine motor skills.
11. On November 19, 2021, the IEP team convened to review "outside documents presented to the school by the parents." The Prior Written Notice generated following the meeting reflects that the team reviewed a second "outside" document diagnosing the student "as a child on the Autism spectrum based on the medical model." The IEP team did not accept the conclusions of the "outside" document because it was not a "comprehensive report with data from standardized assessments and did not include qualitative or quantitative data to review." The IEP team requested consent to release information to the team from the student's doctor. The IEP team proposed and agreed to complete psychological, speech and language and occupational therapy assessments. There is no documentation that the parent requested additional assessments.
12. On January 24, 2022, the IEP team convened to review speech and language, psychological, and occupational therapy assessments. Following this review, the IEP team requested the parent provide additional information regarding the student's social/emotional needs as part of an additional psychological assessment. A "Notice and Consent for Assessment" form generated following the meeting reflects that a prior psychological assessment was "not complete prior to the IEP meeting on January 24, 2022."

CONCLUSIONS:

ALLEGATION #1:

BEHAVIORAL, INATTENTION, VISION, ASSISTIVE TECHNOLOGY, SENSORY, ATTENDANCE, AND MEDICAL NEEDS ADDRESSED BY THE IEP

Based on the Findings of Facts #1-#8, the MSDE finds that the PGCPS did ensure that the IEP for the student has addressed his identified behavioral, inattentiveness, vision, assistive technology, sensory and medical needs since June 4, 2021 in accordance with 34 CFR §§300.101,

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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.⁴ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student-Specific

The MSDE also requires the PGCPS to provide documentation that the IEP team has taken the following action:

- a. Reviewed the student's attendance needs and revise the IEP if appropriate;
- b. Completed the reevaluation, reviewed and revised the IEP consistent with the data, and has determined compensatory services for the delay;
- c. Determined the levels of functioning and performance that were expected to have been demonstrated by that time;
- d. Determined the services, or other remedy, needed to remediate the violations identified in this investigation; and
- e. Developed a plan for the implementation of the services within one (1) year of the date of this Letter of Findings.

The PGCPS must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

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

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.

⁴ 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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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.

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 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 Early Intervention/Special Education Services

MEF/tg

c: Monica Goldson
Barbara VanDyke
Monica Wheeler

Diane Eisenstadt
Gerald Loiacono
Tracy Givens