



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 for Special Education
Prince George's County Public Schools
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #22-090

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 27, 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 did not follow proper procedures when responding to a request for an Individualized Education Program (IEP) team meeting on September 15, 2021, in accordance with 34 CFR §300.503.
2. The PGCPS has not ensured that the student's IEP has included positive behavioral interventions and supports to address his interfering behaviors since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101 and .324.

3. The PGCPS did not provide the parent with prior written notice of the IEP team's decision to reject the proposal for a different educational placement, which was made at the IEP team meeting on December 15, 2021, in accordance with 34 CFR §300.503.
4. The PGCPS has not ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the IEP goals, since the start of the 2021 - 2022 school year, in accordance with 34 CFR §300.324.
5. The PGCPS did not ensure the student has been provided with a graphic organizer as required by IEP since the start of the 2021 - 2022 school year, in accordance with 34 CFR §300.324.
6. The PGCPS did not ensure that the parent was provided with reports of the student's progress toward achieving the annual IEP goals for the first quarter of the 2021- 2022 school year, in accordance with 34 CFR §§300.320 and .323.
7. The PGCPS has not ensured that the student's IEP addresses his written expression, phonics, and decoding needs since January 27, 2021, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is nine (9) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATIONS #1 AND #4 - #7: RESPONDING TO AN IEP REQUEST,
ADDRESSING THE LACK OF PROGRESS,
PROVISION OF ACCOMMODATIONS,
PROVISION OF PROGRESS REPORTS, AND
ADDRESSING THE STUDENT'S NEEDS**

SUMMARY OF FINDINGS:

1. In its written response to this State complaint, the PGCPS acknowledged that violations occurred with Allegations #1 and #4 - #7. Specifically, the PGCPS acknowledged that proper procedures were not followed when responding to a request for an IEP team meeting, the student's IEP was not reviewed and revised to address the lack of expected progress toward achievement of the goals, the student was not provided with a graphic organizer, the parent was not provided with the student's IEP progress reports for the first quarter of the 2021 - 2022 school year, and the IEP did not address the student's written language, phonics, and decoding needs.

CONCLUSION:

Based on the Finding of Fact #1, the MSDE concurs with the PGCPS conclusions that violations occurred and appreciates the school system's response to the investigation.

ALLEGATIONS #2 AND #3: ADDRESSING THE STUDENT'S INTERFERING BEHAVIORS WITH POSITIVE INTERVENTIONS AND SUPPORT, AND PRIOR WRITTEN NOTICE REGARDING PLACEMENT DETERMINATION

FINDINGS OF FACTS:

2. The IEP in effect at the start of the 2021 - 2022 school year reflects that the student has identified needs in the areas of social and emotional behavior, social interaction skills, and self-management. The IEP includes specialized instruction, supports, and related services to assist the student with improving his skills in these areas. The IEP also includes annual goals in the areas of social interaction skills and self-management.
3. The present level of performance in the area of social and emotional behavior reflects that the student is performing "below" age level expectations in this area. The IEP also states that when the student is "presented with difficult academic based tasks, he may walk away from the computer screen. This impacts his ability to complete assignments within an appropriate timeframe and opportunities to receive assistance. When presented with an undesired activity, [the student] may verbally refuse to complete a task. He would yell that the assignment is too hard or he doesn't want to do it. When he doesn't want to do the assignment, he is a lot more anxious and noticeably upset or aggravated." The IEP, however, does not indicate how the student's progress with improving his social emotional behavior skills will be measured.

December IEP Team Meeting

4. On December 15, 2021, the IEP team convened to address concerns raised by the student's parents who reported that the student was having difficulties completing classwork that is sent home and that they would like to be informed about the work the student is completing at school. The school staff reported that the student "struggles equally between classroom and home when completing assignments, and that he was exhibiting concerning behaviors mainly to include frequent out of seat behaviors as well as class disruption. These behaviors cause a safety concern to himself and others, as well as interfering with his ability to learn." The IEP team determined that the student required incentives and motivators to complete his daily assignment and activities. The team also agreed to update the student's Functional Behavior Assessment (FBA) to identify target behaviors and possible supports for him. There is no indication that the IEP was revised at this time.

5. At the same IEP team meeting, the student's parents and advocate indicated that they "believed that the current placement for the student was not working in his best favor" and requested that the IEP team consider a referral to the Central IEP (CIEP) team "due to the lack of progress in his current program and placement." However, the IEP prior written notice does not reflect that the IEP team provided the student's parents with a team decision to accept or reject their proposal regarding a referral for consideration of a different educational placement for the student.

February and March 2022 IEP Team Meetings

6. On February 23 and March 14, 2022, the IEP team convened for an annual review of the student's IEP. The team reviewed the student's academic progress and revised the IEP, including the annual goals, as appropriate. The student's parents expressed continued concern about the student's interfering behaviors and requested information about the strategies being utilized to alleviate his anxiety and stress at school. The IEP team indicated that the student's FBA would be reviewed at the CIEP meeting to be held on March 24, 2022, and that the school's behavior specialist was also working with the student and his team and would collaborate on stress and coping strategies at the next meeting.

CONCLUSIONS:

Allegation #2: An IEP that Includes Positive Behavior Interventions and Supports

In this case, the complainant alleges that the student's teachers were aware that the student was not completing schoolwork but did not address the interfering behavior with positive interventions and supports.

Based on the Findings of Facts #2 - #6, the MSDE finds that the student's IEP does not indicate how the student's progress for improving his social emotional behavior skills will be measured, and thus, the PGCPS has not ensured that the IEP addresses all of the student's interfering behaviors, in accordance with §§300.320 and .324. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #3: Prior Written Notice Regarding a Different Educational Placement Decision

Based on the Findings of Facts #5 and #6, the MSDE finds that, although the PGCPS provided the parents with prior written notice of the IEP team's decision to accept the proposal to review a different educational placement for the student on March 24, 2022, the PGCPS did not provide the parents with prior written notice of the IEP team's decision to accept or reject their proposal regarding a different educational placement for the student on December 15, 2021, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to 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.¹ 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the PGCPS to provide documentation by April 30, 2022, that the IEP team has taken the following action:

- a. Ensure that the student is being provided with the graphic organizers as required by the IEP;
- b. Convened to determine the student's present levels of functioning and performance related to his behavior and indicate how the student's progress for improving his skills in this area will be measured;
- c. Considered the parent's request regarding a different educational placement for the student and provide the parents with prior written notice of the team's decision;
- d. Determined the services needed to remediate the violations identified in this investigation; and

¹ 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.

² 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.

- 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 also ensure that the IEP team considers the difference between the student's present and expected levels of performance when determining the services needed to remediate the violations.

The PGCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain 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 by May 31, 2022, of the steps taken to ensure that the violation does not recur at [REDACTED]

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:ac

c: Monica Goldson
[REDACTED]
Gerald Loiacono

Barbara VanDyke
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Albert Chichester

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