



**REVISED September 9, 2022**

September 8, 2022

Ms. Sharman Dennis  
100 Luna Park Drive - #414  
Alexandria, Virginia 22305

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

RE: [REDACTED]  
Reference: #23-002

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 July 11, 2022, the MSDE received a complaint from **Ms. Sharman Dennis**, 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 conducting a re-evaluation of the student which began on February 8, 2022, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06.
2. The PGCPS did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other documents the IEP team planned to discuss at the IEP team meetings, on May 4 and 18, 2022, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

The student is fourteen (14) years old and is identified as a student with Multiple Disabilities including Autism and Other Health impairment under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

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### **FINDINGS OF FACTS:**

1. On December 6, 2021, the complainants contacted the student's special education teacher to request an IEP meeting to review a private assessment conducted for the student that identified him with "moderate to severe autism".
2. On February 2, 2022<sup>1</sup>, the IEP team met to review and revise, as appropriate, the student's IEP and to review the private assessment conducted for the student. At the IEP meeting, the parents suggested a change of the student's disability classification based on the private psychological assessment from Multiple Disabilities (Intellectual Disability and Other Health Impairment) to Autism. During the meeting, the school-based members of the team indicated that the assessment could not be reviewed because the classroom teacher was not present. The IEP team proceeded to conduct an annual review of the student's IEP without reviewing the private assessment or considering the need for additional information. The parent proposed convening another IEP team meeting to review the private assessment when all required IEP team members were available.
3. On February 23, 2022, the IEP team met to review the private psychological assessment. The IEP team did not document whether it was accepting or rejecting the conclusions and recommendations of the report, but did determine that additional information was needed. The IEP team recommended an additional psychological assessment. The complainants provided consent on the same day.
4. At 11:52 p.m. on May 3, 2022, the day before the planned IEP team meeting, the PGCPs psychologist emailed a copy of the psychological assessment conducted by PGCPs to the student's parents.
5. On May 4, 2022, the IEP team reconvened to review the results of the psychological assessment conducted by the PGCPs school psychologist. The private assessment provided by the parents was also reviewed and considered during the meeting. The parents shared concerns regarding the conclusions of the PGCPs report adding that the student displays "the majority of the autism characteristics at home". The IEP team concluded that the student continued to be eligible under the IDEA as a student with Multiple Disabilities (Intellectual disability and Other Health Impairment).
6. Following the May 4, 2022, IEP team meeting, the student's parents expressed concerns regarding the assessment conducted by the PGCPs. In response, the PGCPs conducted additional psychological testing for the student on May 11, 2022, to supplement the psychological assessment completed on March 23, 2022. On May 18, 2022, the IEP team met to review and discuss the parents' concerns regarding the PGCPs additional psychological assessment. The results of the additional assessment data indicated that the student "exhibits some features of characteristics of autism". The PGCPs did not provide the parents with a copy of a report generated from the additional assessment. During the May 18, 2022, IEP team meeting, the student's parents requested a copy of a report of the assessment findings and asked that the IEP meeting be rescheduled so that they could review the assessment findings. The IEP team agreed to reconvene on June 8, 2022 and stated that the parents would be provided documentation from the additional assessment to review prior to the agreed meeting date.

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<sup>1</sup>The letter of initiation reads February 8, 2022 but the correct date of the IEP meeting is February 2, 2022.

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7. On June 1, 2022, the PGCPs provided the parents with a copy of the additional assessment report completed for the student.
8. On June 8, 2022, the IEP team reconvened to discuss the additional psychological assessment conducted by the PGCPs. Following the review of the additional assessment data, the IEP team determined that the student met the criteria under the IDEA as a student with Multiple disabilities (Autism and Other Health impairments).
9. The PGCPs acknowledges that a violation has occurred with respect to the PGCPs not ensuring that accessible copies of each assessment, report, data chart, draft IEP, or other documents that were planned to be discussed were provided to the IEP team at least five (5) business days before the IEP team meetings on May 4 and 18, 2022.

### **CONCLUSIONS:**

#### **Allegation #1: Evaluation Procedures**

In this complaint, the complainant alleges that the PGCPs did not follow proper procedures when conducting a re-evaluation of the student, which began on February 2, 2022.

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety (90) days of the date, the team determines that assessments are required (COMAR 13A.05.01.06E).

Based on Findings of Facts #1 to #10, the MSDE finds that the PGCPs did not follow proper procedures when conducting a reevaluation of the student which began on February 2, 2022, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to the allegation.

#### **Allegation #2: Provision of Documents Prior to the IEP Team Meeting**

In this complaint, the complainant alleges the PGCPs did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other documents the IEP team planned to discuss at the IEP team meetings, on May 4 and 18, 2022, were provided at least five business days before each scheduled meeting. Based on Finding of Facts #4, the MSDE finds that the PGCPs did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other documents the IEP team planned to discuss at the IEP team meetings, on May 4 and 18, 2022, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

#### **Additional Violation: Revision of the IEP Following Assessments**

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. (34 CFR §300.324).

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Based on Finding of Facts #10, although the IEP was amended at the June 8, 2022 by adding current assessment information to the present levels of academic achievement and functional performance, there is no documentation to show the team considered amending the student's IEP to address his needs based on the current data.

**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>2</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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

**Student-Specific**

By December 1, 2022, the MSDE requires the PGCPS to convene an IEP team meeting to consider revising the student's IEP in light of the new assessment information, as appropriate. The IEP team must provide documentation that the team has determined whether compensatory services are warranted, and if so, the amount and nature of compensatory services or other remedy to redress the violations, and developed a plan for the provision of those services within one 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.

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<sup>2</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>3</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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**School-Based**

The MSDE requires PGCPs to provide documentation by December 1, 2022, of the steps taken to ensure that the violation does not recur at [REDACTED] specifically staff development, including tools to aid in the provision of completed IEP documents five days after the IEP meeting at [REDACTED] and proper evaluation procedures. Documentation of the professional development must be provided to the MSDE by December 15, 2022, including the participants of the session.

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

MF/sj

c: Monica Goldson  
Barbara VanDyke  
Darnell Henderson  
[REDACTED]  
Gerald Loiacono  
Stephanie James