



October 14, 2022

Ms. Ronnetta Stanley, M.Ed.
Loud Voices Together Educational Advocacy Group, Inc.
P.O. Box 1178
Temple Hills, Maryland 20748

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

RE: [REDACTED]
Reference: #23-023

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 August 17, 2022, the MSDE received a complaint from Ms. Ronnetta Stanley, hereafter, "the complainant," on behalf of the above-referenced student and his parent, Mr. [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 following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) team has addressed the parent's concerns since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324.
2. The PGCPS has not ensured that the IEP developed for the student addresses his social/emotional and behavioral needs since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324.
3. The PGCPS did not follow proper procedures when responding to a request for a reevaluation, in accordance with 34 CFR §§300.303 - .311 and .503.
4. The PGCPS did not provide the student with the Extended School Year (ESY) services required by the IEP during the summer of 2022, in accordance with 34 CFR §300.101.
5. The PGCPS did not ensure that the student was provided with the transportation services required by his IEP during school year 2021-2022, in accordance with 34 CFR §§300.101 and 323.

BACKGROUND:

The student is twelve (12) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: ADDRESSING PARENTAL CONCERNS

FINDINGS OF FACTS:

1. On August 27, 2021, the parent requested an IEP meeting to address the student's transition into a new school. A mutually agreed upon meeting was scheduled for November 9, 2021.
2. On March 25, 2022, the student was suspended from school from March 28, 2022- March 31, 2022. A copy of the suspension letter was sent home with the student on March 25, 2022.
3. On April 6, 2022, the complainant placed a request to the school for the following:
 - a. All documentation regarding the suspension to be emailed to the parent;
 - b. A classroom observation to be made by the complaint; and
 - c. An IEP meeting to address the student's behaviors.
4. On June 2, 2022, the PGCPS provided the parent with an additional copy of the suspension letter.
5. There is documentation that the complainant and the school team attempted to schedule a classroom observation but, due to scheduling conflicts, the classroom observation was not conducted.
6. There is no documentation of an IEP meeting scheduled to address the parent's concerns pursuant to the request made on April 6, 2022.
7. On June 11, 2022, the Data Review Team met to review the educational impact of the COVID-19 school closure and distance learning on the student. The Data Review Team determined the student does not require recovery or compensatory services due to the COVID-19 school closure and distance learning.
8. On June 23, 2022, the parent contacted the school via email to disagree with their findings regarding the educational impact of the COVID-19 school closure and distance learning and requested an IEP meeting to address his concerns pursuant to the directions of the Prior Written Notice (PWN). An IEP meeting was granted but there has been no documentation of a meeting being scheduled to address the parent's concern.

CONCLUSIONS:

Based on the Findings of Facts #2-#8, there is no documentation that the IEP team has addressed the parent's concerns since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: IEP DEVELOPMENT/SOCIAL EMOTIONAL BEHAVIORAL NEEDS

FINDINGS OF FACTS:

9. A review of the audio recording of the November 9, 2021, IEP team meeting reflects that the meeting was held to conduct the annual IEP review to review and revise, as appropriate, the student's IEP. The IEP team agreed to add direct counseling services two (2) times a month for thirty (30) minutes to address the student's emotional needs regarding grief.
10. The parent expressed concern about the student's behavior and requested the student be placed in a social skills training group. The special education case manager stated the requested skills are addressed in the student's Academic Resource Class.
11. The IEP behavioral goal created for the student is a self-management goal to follow a verbal direction by looking at the person, verbally acknowledging/repeating the direction (e.g. "okay" or "yes, I will...") and complying within 1-2 minutes of receiving the direction for (4 of 5) direction-following opportunities.
12. The IEP team added the reduction of distractions as a supplementary aid and service.
13. The IEP team agreed a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP) were not warranted.

CONCLUSIONS:

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).

Based on the Finding of Facts #9- #13, the MSDE finds that the PGCPSS did ensure the IEP developed for the student addresses his social/emotional and behavioral needs since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324. Therefore, this office finds a violation did not occur with respect to this allegation.

ALLEGATION #3: PROPER PROCEDURE RESPONDING TO PARENT REQUEST OF REEVALUATION or EVALUATION PROCEDURES

FINDINGS OF FACTS:

14. A review of the audio recording of the November 9, 2021 IEP team meeting reflects the complainant made an oral referral for the student to be reassessed for special education services under the IDEA in order to update the student's present levels of performance as he is not making progress in Reading. School-based staff stated the team needed to reconvene at a later date to start the reevaluation process. There is no documentation of the meeting taking place.
15. There is documentation that the student went through the reevaluation process on September 23, 2020, where the team agreed the student continued to be a student with a disability in need of special education and related services based on the comprehensive evaluations he received in 2017.

The IEP team determined that based on the current data the student did not need additional assessments in the area of his cognitive abilities.

16. The PWN written after the November 9, 2021, IEP meeting, does not reference the IEP school team's acknowledgment of the request for an updated evaluation made by the complainant.
17. There is no documentation that the PGCPs sought, or the parent provided, written consent for conducting additional assessments after the November 9, 2021, meeting.

CONCLUSIONS:

When the school system determines that no additional evaluation data is needed to complete a reevaluation, the parents have the right to request that new assessment(s) be completed. Upon request, the school system must conduct the assessment(s) unless they have been completed within one (1) year.

If additional data is needed to determine a student's needs, the public agency must promptly request parental consent to assess and if obtained, ensure that assessment procedures are conducted and that the IEP team considers the results of the assessment, and that the student's IEP is revised, as appropriate, within ninety (90) days (COMAR 13A.05.01.06).

Based on the Findings of Facts #14 - #17, the MSDE finds that the PGCPs did not follow proper procedures when responding to a request for a reevaluation, in accordance with 34 CFR §§300.303 - .311 and .503. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #4: PROVISION OF ESY SERVICES

FINDINGS OF FACTS:

18. The PWN of the decisions made at the November 9, 2021, IEP team meeting reflects that the IEP team reviewed the eligibility criteria and determined that the student meets the criteria for participation in ESY.
19. On June 17, 2022, the student's ESY assignment letter was mailed to the parent. The letter outlined the location and the dates of ESY. The student was assigned transportation services.
20. There is documentation, dated July 5, 2022, from school staff to the parent that reflects that the school provided the parent with a "Welcome Letter to Parents" that outlined the location and dates of ESY.
21. On July 13, 2022, the parent was contacted via phone by the student's ESY teacher to restate the location of ESY and informed the parent the student's services are virtual. The parent informed the school staff the student was attending summer camp and would not be in attendance for virtual sessions.

CONCLUSIONS:

Based on the Findings of Facts #18 -#21, the MSDE finds that the PGCPs did provide the student the opportunity to attend the ESY as required by the IEP during the summer of 2022, in accordance with 34 CFR §300.101. Therefore, the MSDE does not find that a violation occurred with respect to the allegation.

ALLEGATION #5: PROVISION OF TRANSPORTATION SERVICES

FINDINGS OF FACTS:

22. The student's IEP developed on November 9, 2021, requires that he be provided with transportation to and from school daily.
23. There is documentation to show the student received a bus route with a pick-up and drop-off time.
24. There is documentation the school bus was late in dropping off the student at school 12 days out of the school year.
25. There is no documentation the student was consistently provided with the transportation services required by his IEP.

CONCLUSIONS:

Based on the Findings of Facts, #22- #25, the MSDE finds that the PGCPs did not ensure that the student was provided with the transportation services required by his IEP during school year 2021-2022, in accordance with 34 CFR §§300.101 and 323. Therefore, the MSDE finds that a violation occurred with respect to this 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.

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

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Student-Specific

The MSDE requires the PGCPS to provide documentation that the IEP team has sought the informed consent of the student's parent to conduct the educational assessment requested on November 9, 2021, by October 28, 2022. If the parent provides consent to conduct the assessment, the assessment should be completed without delay, and the results reviewed by the IEP team. Following the review of the assessments, the team will revise the IEP, as appropriate, consistent with the data and parent concerns.

The MSDE requires the PGCPS to provide documentation, that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the delay in timely reevaluating the student, convening IEP meetings requested by the parent, the lack of IEP implementation related to transportation for 2021-2022 academic school year, and during the COVID-19 closure. The PGCPS must develop a plan for the provision of those services within one year of the date of this Letter of Findings.

The MSDE requires the PGCPS to convene an IEP team meeting to discuss the complainant's disagreement with the team's decision regarding recovery/compensatory services and to review the data forming the basis for their decision with the complainant.

The MSDE requires the PGCPS to convene an IEP team meeting to determine whether there was any impact from the twelve (12) days transportation services were delayed. The IEP team must determine whether the violation related to the lack of instruction due to being late arriving to school had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

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 of the steps taken to ensure that the violations identified do not recur at [REDACTED] School, specifically, addressing parent concerns in a timely fashion, following the reevaluation timeline, and providing timely transportation services. 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 again.

Similarly Situated Students

The MSDE requires the PGCPS to determine whether there were other students with disabilities on the same school bus as the above-referenced student and determine if they were affected by transportation services being delayed. The IEP team must determine whether the violation related to the lack of instruction due to the tardiness of transportation services had a negative impact on the student's ability to benefit from their education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

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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

MF/sj

c: Monica Goldson
Keith Marston
Darnell Henderson
[REDACTED]
Stephanie James
Diane Eisenstadt