



December 22, 2022

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Baltimore, Maryland 21211

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: #23-069

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 October 24, 2022, the MSDE received a complaint from Ms. Jaime Seaton, hereafter, “the complainant,” on behalf of the above-referenced student and his parent¹, 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 following allegations:

1. The PGCPS has not followed proper procedures when conducting a reevaluation of the student in all areas of suspected disabilities during the 2021- 2022 school year, in accordance with 34 CFR §§300.303 - .306.
2. The PGCPS did not ensure that the Individualized Education Program (IEP) team reviewed and revised, as appropriate, the student’s IEP to address the lack of expected progress toward achieving the IEP goals during the 2021- 2022 school year, in accordance with 34 CFR §300.324.

¹ The complainant is the student’s sister serving as his parent pursuant to 34 CFR §§300.30 under the IDEA.

3. The PGCPS did not ensure that the student's IEP contains a transition plan based on age-appropriate assessments during the 2021- 2022 school year, in accordance with 34 CFR §300.320.
4. The PGCPS did not ensure that the IEP team addressed the student's parental concerns regarding the student's daily life skills during the 2021- 2022 school year, in accordance with 34 CFR §300.324(a)(1)(ii).

BACKGROUND:

The student is nineteen (19) years old and is identified as a student with an Intellectual Disability under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: IDEA IDENTIFICATION/EVALUATION

FINDINGS OF FACTS:

1. On January 18, 2022, an IEP team meeting was convened to conduct a reevaluation for the student. During the IEP team meeting, the IEP team determined that updated assessments were necessary to determine continued eligibility under the IEP and determine present levels of academic performance and developmental needs. The IEP team recommended assessments in the following areas: Academic Performance, Functional/ Adaptive Performance, Intellectual/ Cognitive Functioning, and Vocation.
2. There is documentation that the student's parent provided consent for the recommended assessments on January 19, 2022.
3. On January 26, 2022, the student's parent sent an email to school staff requesting that a Functional Behavioral Assessment (FBA) be conducted for the student as part of the pending evaluation of the student.
4. To date, there is no documentation that an FBA has been completed for the student nor has the team considered the need for the FBA.
5. While there is documentation that educational, psychological, and transition assessments have been completed for the student, there is no documentation that the IEP team has met to review the results of the assessments, determined continued eligibility for the student, or reviewed and revised the student's IEP with the information from the updated assessments.

CONCLUSIONS:

Based on Findings of Facts #1- #5, the MSDE finds that the PGCPS has not followed proper procedures when conducting a reevaluation in all areas of suspected disabilities during the 2021- 2022 school year, in accordance with 34 CFR §§300.303 - .306. Therefore, this office finds that a violation occurred with respect to this allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

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 the Findings of Fact #5, the MSDE finds that the PGCPS did not follow proper procedures when conducting a reevaluation of the student during the 2021- 2022 school year, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred.

ALLEGATION #2 and #3: ADDRESSING THE LACK OF EXPECTED PROGRESS AND PROVISION OF TRANSITION PLAN

FINDINGS OF FACTS:

6. The student's IEP in effect at the start of the 2021-2022 school year, was developed on February 24, 2021. The IEP identifies the student's needs in the areas of Math Calculation, Reading Comprehension, and Transition. The IEP requires the student to be provided with specialized instruction in the "Community Reference Instruction" (CRI) program in a self-contained classroom.
7. The student's IEP progress reports dated April 9, 2021, June 15, 2021, October 16, 2021, and February 2, 2022, reflect that the student's transition goals were "partially completed."
8. On January 5, 2022, the IEP team convened to review the student's educational/transitional goals for graduation per the request of the student's parent. In response, the IEP team developed additional objectives for the student including an objective for identifying street signs for when the student begins to drive and an objective to identify government officials found in the community. The IEP team also developed a behavioral/self-management goal.
9. There is no documentation that the IEP team addressed the student's lack of expected progress on transitional goals during the January 5, 2022, IEP meeting during which the student's IEP progress report reflects that the IEP goals were "partially completed" for over three reporting periods.
10. On February 16, 2022, the IEP team convened to review and revise the student's IEP, as appropriate. The IEP team updated the student's Math Calculation, Reading Comprehension, and Behavioral goals. The present level of academic achievement and functional performance reflect the student has a significant cognitive disability, and his academic, social, communication, and adaptive skills are discrepant from the students in the general education setting. The student's disability impacts his performance and progress in the areas of reading decoding and comprehension, math computation and problem-solving, vocabulary and concept development, and written language. He requires prompting, repetitious drills, modification to the curriculum, manipulative, small group instruction, and a human reader in order to access and progress in the general education curriculum.
11. There is no documentation of a Prior Written Notice (PWN) being provided to the parent following the February 16, 2022, IEP meeting to inform her of why the team did not review and revise two of the transitional goals, nor is there documentation of the team addressing the partially completed IEP goals during the IEP meeting.
12. The student's IEP dated February 16, 2022, reflects the student was assessed through the Unique Learning System in February of 2022. The student scored "Instructional for identifying initial letters, word rimes [sic], and identifying final letters." "When reading with symbols, the student shows only a slight difference between reading text and text with symbols. When focused, the student answers basic comprehension questions, independently." The student's current instructional grade level performance is Pre-K.

13. There is documentation that the staff administered the “Pictorial Interest Inventory” on February 1, 2022. The student scored highest in the area of Automotive and caring for others. During the interview, the student agreed that he wants to work with cars.
14. The student’s IEP transition goals on the IEP dated February 16, 2022, do not reflect at least one measurable annual goal to address academic or employment skills based upon the student’s desired postsecondary goal of working in the automotive field.
15. The student’s IEP transition goals on the IEP dated February 16, 2022, do not consider the need and identify transition services/activities to support the student’s postsecondary goal of working in the automotive field.
16. The student’s transition goal in the services and activities areas of academic, employment training, and activities of daily living reflect:
 - a. Academic - the student will develop a resume using samples to assist. The student will complete a web search of local first responders certification programs.
 - b. Employment training states the student will complete sample job applications.
 - c. Activities of daily living states Dominick will pack his own lunch.
17. There is documentation of a PWN dated March 30, 2022, in which the parent recommended “some changes to the IEP.”
18. The IEP dated April 4, 2022, shows the IEP was amended to reflect changes to the following areas:
 - Added an adaptive technology goal
 - Amended math calculation goal
 - Amended the Reading Comprehension
 - Amended social-emotional goal
19. The student’s IEP progress reports dated April 5, 2022, June 23, 2022, and October 13, 2022, reflect that the student’s transition goals were “partially completed or not completed.” This included the two repeated IEP goals.

CONCLUSIONS:

ALLEGATION #2

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 #7, #9, #11, and #16, the MSDE finds that the PGCPs did not ensure that the Individualized Education Program (IEP) team reviewed and revised, as appropriate, the student’s IEP to address the lack of expected progress toward achieving the IEP goals, in accordance with 34 CFR §300.324. Therefore, this office finds a violation did occur with respect to this allegation.

ALLEGATION #3:

Based on the Findings of Facts #13, #14, #15, and #16, the MSDE finds that the PGCPs did ensure that the student's IEP contains a transition plan based on age-appropriate assessments during the 2021- 2022 school year, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation did not occur with respect to this allegation.

The MSDE has issued guidance (Maryland IEP Process Guide) on the requirement of writing transition plans for students with disabilities.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Secondary transition planning is a formal process to prepare students with disabilities for life after high school. The IEP team, including the student and parents, should review the postsecondary goals and use data from the student's Present Level of Academic Achievement and Functional Performance (PLAAFP), transition assessments, and annual IEP goals to identify appropriate transition services/activities.

The IEP goals must be updated annually and must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills in accordance with 34 CFR 300.320(b)(1).

Based on the Findings of Fact #14 the IEP dated February 16, 2022, provided a limited transition section, as the IEP goals provided were not measurable, specific, and consisted of inappropriate narratives towards the progression of each goal.

ALLEGATION #4: ADDRESSING PARENT CONCERNS

FINDINGS OF FACTS:

20. There is documentation in the parent contact log of the student's parent requesting assistance from the special education teacher on May 20, 2022, to assist the student in learning additional daily living skills such as basic numbers to help the student with telling time due to safety concerns, and the difference in currency such as coins and bills.
21. There is documentation of the student's parent submitting an email to the special education teacher on May 19, 2022, to address additional safety concerns regarding his daily transportation, as the school bus does not provide a wait time for the student to leave the home to get on the school bus. This is an additional safety concern, as the student would walk to school.
22. There is no documentation that the IEP has addressed the parent's concerns regarding learning additional daily living skills or issues with transportation.

CONCLUSIONS:

Based on the Findings of Facts #20 - #22, the MSDE finds that the PGCPs did not ensure that the IEP team addressed the student's parent concerns regarding the student's daily life skills during the 2021- 2022 school year, in accordance with 34 CFR §300.324(a)(1)(ii). Therefore, the MSDE 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.² 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.³ 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 January 31, 2023, of the following actions:

- a. The IEP team has completed the re-evaluation process recommended on January 18, 2022, and January 26, 2022 (parent request), convened to review the evaluations and revise the IEP, as appropriate, consistent with the new data.
- b. The IEP reviewed and revised the Transition section of the IEP to reflect the required comprehensive components of an IEP.
- c. That the IEP team has convened to determine whether the violations identified in this Letter of Findings 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 a 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 at [REDACTED] School to ensure the following:

² 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.

³ 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.

- a. IDEA evaluations are completed and reviewed within required timelines;
- b. That secondary transition goals are aligned with the student's interests and goals, and are written appropriately; and
- c. Ensure that the violations do not recur and a description of the action to be taken to monitor to ensure the effectiveness of those steps.

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
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