




Mohammed Choudhury
State Superintendent of Schools

April 6, 2023




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

RE: 
Reference: #23-122

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 6, 2023, MSDE received a complaint from Ms.  hereafter, "the complainant," on behalf of her son. MSDE provided an extension to the above-referenced complaint until April 7, 2023. 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.

MSDE investigated the following allegations:

1. The PGCPS did not ensure that proper procedures were followed when responding to a request for an independent educational evaluation (IEE) obtained at the public expense in January 2022, in accordance with 34 CFR §300.502 and Md. Code Ann., Education § 8-405.
2. The PGCPS did not ensure that proper procedures were followed when responding to a request to evaluate the student on March 16, 2022, in accordance with 34 CFR §§300.303 - .311 and COMAR 13A.05.01.06.
3. The PGCPS did not ensure that the Individualized Education Program (IEP) team considered assessment data and other information provided by the parent, since February 2022, in accordance with 34 CFR §300.324 and .502.

4. The PGCPs has not ensured that the student's IEP identifies and addresses all of the student's identified spelling, reading, writing and occupational therapy needs, since January 2022, in accordance with 34 CFR §300.320 and .324.
5. The PGCPs did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals from April 23, 2022, through July 20, 2022, in accordance with 34 CFR §§300.320 and .323.
6. The PGCPs did not ensure that the student has been provided with the special education instruction required by the IEP from a certified special education teacher from April 2022- June 2022, in accordance with 34 CFR §§300.101 and .156 and COMAR 13A.12.02.
7. The PGCPs did not ensure the proper procedures were followed when responding to requests to amend, inspect, and review the student's educational record in March and July 2022, in accordance with 34 CFR §§300.613 and .618.

BACKGROUND:

The student is nine years old and is identified as a student with Specific Learning Disability under the IDEA. He attends ██████████ School. Prior to the 2022- 2023 school year, he attended ██████████ ██████████. The student has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

ALLEGATION #1, #2, and #3: PROPER PROCEDURES WHEN RESPONDING TO A REQUEST FOR AN INDEPENDENT EDUCATIONAL EVALUATION, RESPONDING TO A REQUEST TO EVALUATE THE STUDENT AND CONSIDERATION OF INFORMATION PROVIDED BY THE PARENT

1. On October 6, 2021, the IEP team convened for a re-evaluation of the student. The written summary of the IEP team meeting reflects that the team determined that assessments would be conducted in the areas of:
 - a. Cognitive ability
 - b. Observation (by a psychologist)
 - c. Academic achievement
 - d. Speech and language
 - e. Fine motor/Written Language Expression
 - f. Language Expression

The complainant refused consent and requested an Independent Educational Evaluation (IEE).

2. There is documentation from the PGCPs, dated November 16, 2021, reflecting that the school system acknowledged the complainant's request for the PGCPs to fund a cognitive and educational assessment IEE for the student in response to her request. The documentation further reflects that the school system "will inform the complainant by November 23, 2021," of the decision whether to fund the IEE for the student or their intent to request a due process hearing to defend the school-based evaluation.

3. On November 23, 2021, the PGCPs agreed, via email, to fund the complainant's request for an IEE in the areas of cognitive/psychological, speech/language, and academic achievement assessments. The email refers to "enclosed ... PGCPs Guidelines for an IEE, which includes guidelines for writing the IEE, completing the report, and fee limits for each type of evaluation." There is no documentation, however, that the email contained the referenced information for obtaining the assessment, consistent with PGCPs policy.
4. On January 19, 2022, the PGCPs received information from the parent related to the student's private Occupational Therapy services.
5. On February 22, 2022, the parent requested a meeting with PGCPs staff to discuss funding concerns regarding the approved psychological IEE. The parent was provided with a signed funding letter and guidelines to obtain the approved IEE. On April 15, 2022, the psychological IEE was conducted for the student.
6. On March 16, 2022, the IEP team met at the request of the parent. During the meeting, the parent requested a vision consult due to his private diagnosis of [REDACTED] and an assistive technology (AT) consult due to his deficits in executive functioning and writing. Members of the IEP team reviewed work samples from the general educator and parent, parent input, teacher input, special educator input, and input from related service professionals. The team agreed to "table the conversation about the vision assessment" until the team received the upcoming vision report. The PGCPs AT consultant present at the meeting recommended additional strategies (keyboarding) to be implemented during instruction.
7. There is documentation that the student received an additional private Psychological Evaluation, completed on May 2, 2022 by [REDACTED] due to the parent's concern regarding the student's attention and learning along with vision concerns. The parent presented the assessment to the PGCPs staff on May 13, 2022, along with a copy of the completed IEE for speech and language assessment.
8. On June 14, 2022, the IEP team met to, in part, review the results of the completed IEE and determine continued eligibility. The team reviewed the following documents as part of the review:
 - Speech and Language IEE
 - Occupational Therapy information
 - Psychological Assessment (IEE) April 15, 2022
 - Private Psychological Assessment from [REDACTED] ([REDACTED]) May 2022
 - Vision Discussion (information from [REDACTED] report and outside physician)

The IEP team determined that the student continues to qualify for specialized instruction as a student with an educational disability of Specific Learning Disability; added direct speech service; agreed to continue with OT service, including a keyboarding "trial"; accepted the student is a student with outside diagnoses of Autism, ADHD, Specific Learning Disability that should be supported in his IEP; discussed the student's vision challenges [REDACTED] and recommended additional accommodations. The team used data from [REDACTED] vision report and outside physician's information to determine that the student required some accommodations, but that the use of large print was not appropriate for the student based on "the student's condition". The parent disagreed with the recommendation. The IEP team agreed to reconvene to complete the review and the discussion of

the student's vision needs, and would consult with PGCPs central office staff regarding the recommendation and have the team revisit the topic.

9. On July 20, 2022, the IEP met to review and revise the IEP as appropriate. The IEP team used the data from the IEE assessments, [REDACTED] assessment, "Spellread" intervention pre-assessment, student grades, and parent input to include goals in the area of reading phonics, reading comprehension, math calculation, math problem solving, fine motor, speech/language, and supplementary aids and services. The team also recommended a vision assessment after the student returned from summer break and rejected the request for an AT assessment as data was still being collected from the screening.
10. There is documentation that the student received a vision assessment conducted by the PGCPs to determine the impact of vision and the need for specialized instruction, accommodations and/or supplementary aids related to vision on September 15, 2022.
11. On September 27, 2022, the IEP team met to review and revise the IEP as appropriate. The IEP team agreed to conduct an AT assessment.
12. There is documentation that the student received an AT assessment completed on October 18, 2022.
13. On October 27, 2022, the IEP team convened to review the vision and AT assessments. The parent agreed with the AT results but disagreed with the finding of the vision assessment. The parent expressed concern that the vision assessment only mentioned the area of reading when referring to the need for increasing font size and not all school materials. The AT assessment indicated that the student required a word processing device with access to keyboarding, text-to-speech, highlighting, and voice notes.

CONCLUSIONS:

Proper Procedures When Responding to an IEE

A parent of a student with a disability may obtain an independent educational evaluation at public expense in accordance with 34 CFR §300.502. The local school system shall provide a written response approving or denying a request within 30 days of the date the request was made. If the local school system approves a request, the written response shall advise the parent of the process for arranging the evaluation at public expense. If the local school system denies a request, the local school system shall file a due process complaint within 30 days of the date of the denial (Md. Code Ann., Education §8-405).

Based on the Finding of Facts # 1 to #3, and #5, MSDE finds that the PGCPs did not ensure that proper procedures were followed when responding to a request for an independent educational evaluation (IEE) obtained at the public expense in January 2022, in accordance with 34 CFR §300.502 and Educ. § 8-405. Therefore, this office finds that a violation occurred with respect to the allegation.

Responding to a Request to Evaluate the Student

Based on the Finding of Facts #6, #8 to #13, MSDE finds that the PGCPs has ensured that proper procedures were followed when responding to a request to evaluate the student on March 16, 2022, in accordance with 34 CFR §§300.303 - .311 and COMAR 13A.05.01.06. Therefore, this office does not find that a violation occurred with respect to the allegation.

Consideration of Information From the Parent

In this case, the parent provided information to be considered by the IEP team in January 2022, and it was not considered by the IEP team until June 14, 2022. Based on the Finding of Facts # 5 to #9, MSDE finds that the PGCPs did ensure that the IEP team considered assessment data and other information provided by the parent, since February 2022, in accordance with 34 CFR §300.324 and .502. Therefore, this office finds that a violation did occur with respect to the allegation.

ALLEGATION #4: IEP THAT ADDRESSES THE STUDENT'S NEEDS

14. The student's IEP, in effect as of January 2022, contains present levels of academic achievement and functional performance and goals that were developed on January 20, 2021. The IEP reflects that the student requires support in the areas of reading comprehension, reading phonemic awareness, speech and language - Expressive/receptive Language, Behavioral - Self-management, and occupational therapy as a related service.
15. There is documentation that the school staff contacted the parent on January 13, 2022, to schedule an annual IEP meeting. The complainant requested that the student's annual IEP team meeting be delayed until all IEE assessments were completed and requested that the assessment data be reviewed during the student's annual review meeting.
16. On April 7, 2022, the IEP team met and agreed to "send the parent the 1st-grade sight words and will mark which words the student has already recognized as well as send home the 2nd-grade spelling words along with the modified spelling list the student already receives."
17. The student's IEP developed on January 20, 2021, identifies occupational therapy needs of the student related to motor planning and coordination, letter formation, and spatial awareness. On June 14, 2022, the IEP team reviewed an OT assessment and determined that OT services are still required and the team will continue to introduce "keyboarding opportunities."
18. On July 20, 2022, the IEP team met to review and revise the IEP as appropriate using data from the IEE assessments, private psychological assessment, "Spellread" intervention pre-assessment, student grades, and parent input. The IEP reflects that the student requires support in the areas of cognitive, reading phonics, reading comprehension, math calculation, math problem solving, occupational therapy, and speech and language as related services.
19. The IEP team met on August 31, 2022, to review and revise the IEP, as appropriate. During the meeting, the IEP team agreed to amend the standards in reading and math from 3rd grade to 2nd grade as the student was retained.
20. The IEP team met on September 27, 2022, to review and revise the IEP as appropriate. During the meeting, the team reviewed baseline data provided by classroom teachers and service providers, and parent input. The team agreed to amend the student's phonics, reading comprehension, math calculation, and problem-solving goals to reflect his current needs as well as add additional accommodations for reading and math.
21. The IEP team met on November 3, 2022, to review and revise the IEP as appropriate and to review the vision and AT assessment evaluations. The IEP team reviewed data from assessments and parent input. The IEP team agreed to amend the IEP to add additional accommodations to the

supplementary aids and services to assist the student in reading and writing.

22. On February 22, 2023, the IEP team met to review and revise the IEP, as appropriate, and to address parent concerns related to her request for a Chromebook with a larger screen and the student's vision. During the meeting, the team agreed to add a vision section to the student's IEP with the present levels and supports.

CONCLUSIONS:

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. 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. In the case of a student whose behavior impedes the student's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior (34 CFR §§300.101, .320, and .324).

Based on the Finding of Facts #7, #9, #10, and #14 to #22, MSDE finds that the PGPS has ensured that the student's IEP identifies and addresses all of the student's identified spelling, reading, writing, and occupational therapy needs, since January 2022, in accordance with 34 CFR §300.320 and .324. Therefore, this office finds that a violation did not occur with respect to the allegation.

ALLEGATION #5: PROVISION OF PROGRESS REPORTS

23. The student's IEP requires that the parent be provided with reports on the student's progress towards IEP goals quarterly.
24. There is no documentation the PGCPs provided the parent with quarterly progress reports toward achieving the annual IEP goals from April 23, 2022, through July 20, 2022.

CONCLUSIONS:

Based on the Finding of Facts #23 and #24, MSDE finds that the PGCPs did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals from April 23, 2022, through July 20, 2022, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #6: PROVISION OF SPECIAL EDUCATION INSTRUCTION INCLUDING THE REQUIREMENT OF A CERTIFIED SPECIAL EDUCATION TEACHER

25. The IEP in effect from April 2022 to June 2022 requires that the student receive classroom instruction in the general education classroom for ten hours a week and two and half hours outside the general education classroom with the services provided by a special education teacher.
26. There is no documentation that the student was provided with the special education instruction required by the IEP from a certified special education teacher from April 2022 to June 2022.

CONCLUSIONS:

Based on the Finding of Facts #25 and #26, MSDE finds that the PGCPs did not ensure that the student has been provided with the special education instruction required by the IEP from a certified special education teacher from April 2022 to June 2022, in accordance with 34 CFR §§300.101 and .156 and COMAR 13A.12.02. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #7: ACCESS AND AMENDMENTS TO THE STUDENT'S RECORD

27. On May 4, 2022, the parent sent an email in which she disagreed with language used by the IEP team in the prior written notice related to the April 7, 2022 meeting. While the complaint disagreed with the document's contents, she did not specifically propose that the document be amended.
28. On June 2, 2022, parent requested access to the student's record.
29. There is documentation that a copy of the student's record was left for the complainant at the "front desk" of the school building on June 3, 2022, with a signed receipt of the complainant receiving it.

CONCLUSIONS:

Based on the Finding of Facts #27 to #29, MSDE finds that the PGCPs did ensure the proper procedures were followed when responding to requests to amend, inspect, and review the student's educational record in March and July 2022, in accordance with 34 CFR §§300.613 and .618. Therefore, this office finds that a violation did not occur 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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

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 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

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, 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 MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

MSDE requires the PGCPs to provide documentation, by June 15, 2023, that the IEP team has taken the following action:

- a. Provided the parent a copy of the quarterly progress reports toward achieving the annual IEP goals from April 23, 2022, through July 20, 2022.
- b. That the IEP team has convened and determined whether the violation related to the impact of not having a certified special education teacher provide instruction to the student, the delay in the completion of requested IEE and the delay in reviewing information provided by the parent 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 remedy 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 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:

MSDE requires the PGCPs to provide documentation, by June 30, 2023, of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at [REDACTED] School. Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to MSDE. If compliance with the requirements is reported, MSDE staff will verify compliance with the determinations found in the initial report.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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

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student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC/sj

c: Monica Goldson
Trinell Bowman
Keith Marston
Darnell Henderson
[REDACTED]
Allison Barmat
Gerald Loiacono
Diane Eisenstadt
Stephanie James