



July 14, 2023

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

RE: [REDACTED]  
Reference: #23- 231

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.

**ALLEGATION:**

On May 17, 2023, MSDE received a complaint from Mr. [REDACTED], Ms. [REDACTED], Ms. Walter, and Ms. Wick, hereafter, "the complainants," on behalf of the above-referenced student. In that correspondence, the complainants alleged that the Prince George's County Public School (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 follow proper procedures when conducting a reevaluation of the student, specifically when completing educational testing and assessing the student's physical therapy needs since June 2022, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.06.
2. The PGCPS has not developed an Individualized Education Program (IEP) that addresses the student's identified physical therapy needs since June 2022, in accordance with 34 CFR §300.324.
3. The PGCPS has not ensured that the student was provided with a physical therapy consultation as required by the student's IEP, since June 2022, in accordance with 34 CFR §§300.101 and .323.

4. The PGCPs has not ensured that the student's IEP contains appropriate and measurable annual goals designed to meet the student's identified needs, updated parental input, and an appropriate Present Levels of Academic Achievement and Functional Performance (PLAFFF) section since June 2022, in accordance with 34 CFR §300.320.
5. The PGCPs has not ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address the lack of expected progress toward achieving the IEP goals since June 2022, in accordance with 34 CFR §300.324.
6. The PGCPs did not document and consider the parent's concerns in the student's IEP since June 2022, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.08A(3)(b).
7. The PGCPs did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the June 2022, January 2023, and February 2023, IEP team meetings at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
8. The PGCPs did not provide the parents with a copy of the completed IEP document within five business days after the IEP team meeting conducted in February 2023, in accordance with COMAR 13A.05.01.07.
9. The PGCPs did not ensure that the decisions regarding compensatory education/ recovery services made in June 2022, were consistent with the needs of the student, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is twenty years old and is identified as a student with multiple disabilities (intellectual disability, hearing disability, and other health impairment) under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATIONS #1, #2, AND #3: PROPER PROCEDURES WHEN CONDUCTING A REEVALUATION, IEP THAT ADDRESSES THE STUDENT'S PHYSICAL THERAPY NEEDS, AND PROVISION OF PHYSICAL THERAPY CONSULT**

**FINDINGS OF FACTS:**

1. The student's IEP, developed on February 2, 2022, reflects that physical: functional mobility is an area that does not impact the student's academic achievement and/or functional performance. The IEP does not reflect the requirement of a physical therapy consultation.
2. On June 28, 2022, the IEP team met to consider an evaluation for the student. The IEP team recommended that an educational assessment and psychological assessment be completed for the student. The team further recommended that the student receive a physical therapy observation at the beginning of the 2022- 2023 school year.
3. On September 22, 2022, the student's attorneys emailed the PGCPs requesting for the student to be "re-evaluated for physical therapy services." The PGCPs staff responded to the student's attorneys on

September 23, 2022: "This request has to be made through a formal IEP meeting ... if your request is for an IEP team meeting to be held so that the IEP team can review and consider the parent's concerns, then we can schedule an IEP meeting within our 30- day timeline." On October 4, 2022, the student's attorneys emailed the PGCPs: "this request does not have to be made through a formal IEP meeting. Our prior email satisfies the requirements for a written request for re-evaluation." On this same date, the PGCPs responded to the student's attorneys: "At the previous IEP meeting, we agreed to have a physical therapist complete an informal observation of the student. Then, we would reconvene to review those results and determine as an IEP team if further assessments were needed. I am still waiting to hear from the PT regarding their follow-up from the informal observation, their recommendations, and the next steps the IEP team should follow based on their findings."

4. On November 4, 2023, the PGCPs completed a "physical therapy observation report" for the student. Following receipt of the report on November 10, 2022, the student's attorneys emailed the PGCPs: "Thank you for sending us the observation report. After reviewing the findings of the report, the student's parent no longer believes that the meeting on Monday is necessary, and she would like to cancel the meeting. Thank you for completing the observation. We look forward to discussing the results of the psychological evaluation in the coming weeks."
5. On February 10, 2023, the IEP team met to complete the re-evaluation process recommended for the student and complete an annual review of her IEP. The "physical therapy observation report" was completed for the student on November 4, 2023. The Observation Report for Physical Therapy reflects the instructional implications for the student's participation in the learning environment: "From the physical therapy observation, the student is walking with a normal gait pattern. She is walking with normal speed. She is lifting and clearing her feet from the ground appropriately when she walks. The student is able to ascend and descend steps independently throughout her learning environment. The student is mobilizing independently throughout her learning environment and is able to participate well in all her classes without gross motor issues."
6. During the IEP team meeting, the IEP team also considered academic and psychological assessments completed for the student and incorporated the findings into the student's IEP. Based on those assessments, the IEP team determined that the student continued to be eligible under the IDEA and would continue to receive specialized instruction in the "Community Referenced Instruction" program in the PGCPs. This program provides specially designed instruction for students with significant cognitive disabilities who require specialized instruction based on alternate academic achievement standards and assessments, along with accommodations, modifications, and supplementary aids and services in all classes.
7. There is documentation that on February 10, 2023, the IEP team met for the purpose of completing an annual review meeting.
8. The student's IEP, developed on February 10, 2023, does not reference physical therapy as an area that impacts the student's academic achievement and/or functional performance. The IEP does not require that the student receive a physical therapy consultation.

**CONCLUSIONS:**

**ALLEGATION #1: PROPER PROCEDURES WHEN CONDUCTING A REEVALUATION**

Based upon Findings of Facts #1- 7, MSDE finds that the PGCPs did not follow proper procedures when conducting a reevaluation of the student, specifically when completing educational testing and assessing the student's physical therapy needs since June 2022, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to allegation #1.

**ALLEGATION #2: IEP THAT ADDRESSES THE STUDENT'S PHYSICAL THERAPY NEEDS**

Based upon Findings of Facts #1, #4, and #8, MSDE finds that the PGCPs has developed an Individualized Education Program (IEP) that addresses the student's identified physical therapy needs since June 2022, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation occurred with respect to allegation #2.

**ALLEGATION #3: PROVISION OF PHYSICAL THERAPY CONSULTATION**

Based upon Findings of Facts #2- #5, MSDE finds that there was no requirement that the student receive a physical therapy consultation, since June 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find a violation occurred with respect to allegation #3.

**CONCLUSIONS:**

**ALLEGATIONS #4, #5, AND #6: APPROPRIATE AND MEASURABLE ANNUAL GOALS, UPDATED PARENTAL INPUT, AND APPROPRIATE PRESENT LEVELS OF ACADEMIC ACHIEVEMENT, REVISED IEP TO ADDRESS THE LACK OF EXPECTED PROGRESS, DOCUMENT AND CONSIDER THE PARENT'S CONCERNS**

**FINDINGS OF FACTS:**

9. The student is enrolled in the Community Referenced Instruction Program (CRI) program, which provides specially designed instruction for students with significant cognitive disabilities who require specialized instruction based on alternate academic achievement standards and assessments. The student is pursuing a Maryland High School Certificate of Program Completion.
10. The student's IEPs developed on February 2, 2022, and February 10, 2023, reflect the following parental input regarding the student's educational program section: "The student is making progress with her content classes which include Alternate English, Career Research, and ALT-Work study. She is able to access these classes via Zoom and Google Classroom when school is held virtually without difficulty. The student has improved with logging into her inclusion classes if they are held virtually. Currently, we are in school in which the student attends the classes with her peers with and without disabilities. We will continue to assist the student and her family with school-related concerns. The student's parent has been provided with information regarding the Department of Rehabilitation Services (DORS) and the Developmental Disabilities Administration (DDA). The Transition Planning Guide, and Procedural Safeguards, and Parent Center Information has been provided."

11. The student's IEPs developed on February 2, 2022, and February 10, 2023, reflect the areas affected by the student's disability as academic- cognitive, math problem solving, physical education, reading comprehension, written language expression, and health- hearing.
12. The student's IEPs, developed on February 2, 2022, and February 10, 2023, reflect the Present Level of Academic Achievement and Functional Performance for reading comprehension, math problem solving, written language expression, cognitive, and physical education (adaptive physical education) as being below grade level. It further reflects that the student's hearing impacts her ability to hear from the left ear.
13. The student's IEP, developed on February 2, 2022, reflects that the student has a goal in the area of math problem solving: "By January 2023, the student will demonstrate the process of mathematics by making connections and applying reasoning to solve problems and to communicate her findings with supports at 80-100% accuracy using a calculator and manipulatives." The quarterly progress report reflects that the student was making progress on June 21, 2022.
14. The student's IEP, developed on February 2, 2022, reflects that the student has a goal in the area of physical education: "The student will be able to improve her core strength and endurance by demonstrating various abdominal strength and endurance exercises, 4 out of 5 trials, in order to increase her physical fitness". The quarterly progress reports reflect that the student was making progress on April 7, 2022, June 23, 2022, November 4, 2022, and January 24, 2023.
15. The student's IEP, developed on February 2, 2022, reflects that the student has a goal in the area of reading comprehension: "R13 CCR Anchor Standard Analyze how and why individuals, events, and ideas develop and interact over the course of a text with supports at 80- 100% accuracy." The quarterly progress reports reflect that the student was making progress on June 21, 2022.
16. The student's IEP, developed on February 2, 2022, reflects that the student has a goal in the area of written language and expression: "By January 2023, the student will apply revising and editing stages of the writing process (CCSS1WS) with supports at 80- 100% accuracy." The quarterly progress reports reflect that the student was making progress on June 21, 2022, November 10, 2022.
17. The student's IEP, developed on February 2, 2022, reflects that the student has a goal in the area of cognitive: "The student will participate in job readiness skills with a job coach in the community at 100% with supports." The quarterly progress reports reflect that the student was making progress on June 21, 2022, November 10, 2022, and January 24, 2023.
18. The student's IEP, developed on February 10, 2023, reflects that the student has a goal in the area of math problem solving: "Given math problems at her functional ability (money math, time, and measurements) the student will demonstrate the ability to apply reasoning to solve problems and communicate her findings with supports at 80- 100% accuracy using a calculator and/or manipulatives." The quarterly progress report reflects that the student was making progress on November 10, 2022, January 24, 2023, March 30, 2023, and June 13, 2023.
19. The student's IEP, developed on February 10, 2022, reflects that the student has a goal in the area of physical education: The student will be able to improve her core strength and endurance by demonstrating various abdominal strength and endurance exercises, 4 out of 5 trials, in order to increase

her physical fitness.” The quarterly progress reports reflect that the student was making progress on March 30, 2023, and June 13, 2023.

20. The student’s IEP, developed on February 10, 2022, reflects that the student has a goal in the area of reading comprehension: “Given modified text at her reading ability, the student will recall and comprehend some relevant facts and details on a chosen topic over the course of a text with supports at 80-100% accuracy.” The quarterly progress report reflects that the student was making progress on November 10, 2022, January 24, 2023, March 30, 2023, and June 13, 2023.
21. The student’s IEP, developed on February 10, 2022, reflects that the student has a goal in the area of written language and expression: “Given a modified writing assignment, the student will apply revising and editing techniques, with supports to correct spelling and punctuation with at 90% accuracy.” The quarterly progress report reflects that the student was making progress on November 10, 2022, January 24, 2023, March 30, 2023, and June 13, 2023.
22. The student’s IEP, developed on February 10, 2022, reflects that the student has a goal in the area of cognitive: “The student will participate in job readiness skills with a job coach in the community at 90% with supports.” The quarterly progress report reflects that the student was making progress on November 10, 2022, January 24, 2023, March 30, 2023, and June 13, 2023.

#### **CONCLUSIONS:**

#### **ALLEGATION #4: THE STUDENT’S IEP**

##### **Appropriate And Measurable Annual Goals**

Based upon Findings of Facts #9, #11- #22, MSDE finds that the PGCPs has ensured that the student’s IEP contains appropriate and measurable annual goals designed to meet the student’s identified needs since June 2022, in accordance with 34 CFR §300.320. Therefore, this office does not find a violation occurred with respect to this aspect of allegation #4.

##### **Updated Parental Input**

Based upon Findings of Fact #10, MSDE finds that the PGCPs has not ensured that the student’s IEP contains an updated parental input section, since June 2022, in accordance with 34 CFR §300.320. Therefore, this office finds a violation occurred with respect to this aspect of allegation #4.

##### **Appropriate Present Levels of Academic Achievement**

Based upon Findings of Facts #9- #12, MSDE finds that the PGCPs has ensured that the student’s IEP contains an appropriate Present Levels of Academic Achievement and Functional Performance (PLAFF) section since June 2022, in accordance with 34 CFR §300.320. Therefore, this office does not find a violation occurred with respect to this aspect of allegation #4.

**ALLEGATION #5: REVISED IEP TO ADDRESS THE LACK OF EXPECTED PROGRESS**

Based upon Findings of Facts #13- #22, the progress reports completed for the student demonstrate that she was making progress on each of her annual IEP goals and that the PGCPs was not required to convene an IEP team meeting to review and revise, as appropriate, the student's IEP to address the lack of expected progress toward achieving the IEP goals, since June 2022, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation occurred with respect to allegation #5.

**ALLEGATION #6: PARENTAL CONCERNS**

**Document The Parent's Concerns**

Based upon Findings of Fact #10, MSDE finds that the PGCPs did not document and consider the parent's concerns in the student's IEP since June 2022, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.08A(3)(b). Therefore, this office finds a violation occurred with respect to this aspect of allegation #6.

**Consider The Parent's Concerns**

Based upon Findings of Facts #3 and #5, MSDE finds that the PGCPs did consider the parent's concerns in the student's IEP since June 2022, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.08A(3)(b). Therefore, this office does not find a violation occurred with respect to this aspect of allegation #6.

**ALLEGATION #7 and #8: PROVISION OF ACCESSIBLE COPIES OF EACH DOCUMENT THE IEP TEAM PLANNED TO DISCUSS AT THE JUNE 2022, JANUARY 2023, AND FEBRUARY 2023 IEP TEAM MEETINGS AND PROVISION OF COMPLETED IEP DOCUMENTS WITHIN FIVE DAYS AFTER THE FEBRUARY 2023 IEP TEAM MEETING**

**FINDINGS OF FACTS:**

23. There is documentation that an IEP team meeting was held on June 6, 2022, with the purpose of reviewing the student's data, discussing her progress, and updating the student's parent on the process for psychological evaluations for PGCPs. On April 25, 2022, the student's psychological report was emailed to the student's parent in anticipation of reviewing the document during the IEP team meeting. On June 15, 2022, a completed copy of the student's translated IEP was emailed to the student's parent.
24. There is documentation that an IEP team meeting was held on June 22, 2022, with the purpose of considering a reevaluation of the student, the impact on the student of COVID-19 school closures, and revisions to the student's IEP.
25. There is documentation that an IEP team meeting was held on February 21, 2023, with the purpose of conducting an annual review of the student's IEP. On November 4, 2022, a physical therapy observation was emailed to the student's parent. On December 12, 2022, and February 7, 2023, the student's parent was emailed copies of assessments completed for the student. On February 8, 2023, a draft IEP was emailed to the student's parent. While the IEP team also discussed an audiological assessment completed for the student during the IEP team meeting, there is no documentation that the assessment

was provided to the student's parent five days before the IEP team meeting.

26. On February 21, 2023, a completed copy of the student's IEP was emailed to the student's attorneys.

**CONCLUSIONS:**

**ALLEGATION #7: PROVISION OF DOCUMENTS PRIOR TO IEP TEAM MEETING**

Based upon Findings of Facts #23- #25, MSDE finds that the PGCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the June 2022, January 2023, and February 2023, IEP team meetings at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred with respect to allegation #7.

**ALLEGATION #8: PROVISION OF THE COMPLETED IEP FOLLOWING THE FEBRUARY 2023 IEP TEAM MEETING**

Based upon Findings of Fact #26, MSDE finds that the PGCPS provided the parents with a copy of the completed IEP document within five business days after the IEP team meeting conducted in February 2023, per COMAR 13A.05.01.07. Therefore, this office does not find a violation occurred with respect to allegation #8.

**ALLEGATION #9: DECISION REGARDING COMPENSATORY EDUCATION/RECOVERY SERVICES MADE IN JUNE 2022**

**FINDINGS OF FACTS:**

27. The PWN generated following the June 22, 2022, IEP team meeting reflects that the IEP team reviewed and discussed the data review team's decision regarding the impact of the COVID-19 school closures on the student. The IEP team "discussed the data review team decision regarding the impact on the student during the COVID closure. The IEP team refused to change the decision that there was no adverse impact on the student during the COVID closure. The IEP team shared teacher observations, progress, and data with the team. Based on the data, the student had not shown any substantial regression during the closure. Her functional performance continues to be between 2nd and 3rd-grade levels in all academic areas. When she returned to school, she was able to pick up where she left off with no difficulties and very minimal regression."

**CONCLUSIONS:**

When determining the necessity for compensatory education/ recovery services related to the COVID-19 school closures, schools are required to first determine if FAPE was provided to the student during the period of closures. If the school determines that the student was not provided a FAPE during the period of closure, the school system must ensure that a determination is made whether the student was negatively impacted including an analysis of the student's regression or expected progress on annual IEP goals. (MSDE Technical Assistance Bulletin, *Recovery Efforts: Addressing the Provision of FAPE through Alternative Service Delivery Models for Students with Disabilities during the Re-Opening of Schools*, October 2020)



Based upon Findings of Fact #27, MSDE finds that the PGCPs did not ensure that the decisions regarding compensatory education/recovery services made in June 2022, were consistent with the needs of the student, when the data review team relied only on the determination that the student did not regress “substantially” during the period in which the school was closed due to COVID-19, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to allegation #9.

**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.<sup>1</sup> 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.<sup>2</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**

MSDE requires the PGCPs to provide documentation by September 15, 2023, that the IEP team has convened and ensured that the IEP developed for the student properly incorporates the input of the parent, including the parent’s concerns and information provided by the parent and that the IEP team properly considers the student’s need for compensatory education/recovery services related to COVID-19 school closures. The IEP team must determine if the lack of appropriate parental input in developing the student’s IEP, the lack of following proper procedures when conducting a reevaluation of the student, specifically when completing educational testing and assessing the student’s physical therapy needs, and not ensuring that the decisions regarding compensatory education/ recovery services made in June 2022, were consistent with the needs of the student, 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.

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<sup>1</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, 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>2</sup> 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**

MSDE requires the PGCPS to provide documentation by November 1, 2023, of the steps taken to ensure that the violations regarding the lack of updated parental input, the lack of following proper procedures when conducting a reevaluation of the student, specifically when completing educational testing and assessing the student's physical therapy needs, the lack of the provision of the accessible copies of each document the IEP team plans to discuss at least five business days before scheduled IEP team meetings and ensuring that the decisions regarding recovery services, were consistent with the needs of the student , do not recur at [REDACTED] School. The steps must include a tool created to document and monitor the provision of IEP documents and reporting to MSDE of 15 randomly selected records quarterly, monitoring reports to be submitted by November 1, January 31, March 31, and June 15. Substantial compliance (95%) is required.

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. 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: sd

c: Millard House II  
Darnell Henderson  
Keith Marston  
[REDACTED]  
Alison Barmat  
Gerald Loiacono  
Diane Eisenstadt  
Sarah Denney  
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Nicol Elliott