



Karen B. Salmon, Ph.D.
State Superintendent of Schools

April 12, 2021

Ms. Ronetta Stanley
Educational Advocate
Loud Voices Together
P.O. Box 1178
Temple Hills, Maryland 20757

Ms. Trinell Bowman
Associate Superintendent – Special Education
Prince Georges County Public Schools
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #21-058

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 February 18, 2021, the MSDE received a complaint from Ms. Ronetta Stanley, Educational a Advocate, 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 has not ensured that the Individualized Education Program (IEP) team reviewed and revised, as appropriate, the student’s IEP to address lack of expected progress toward achieving the IEP goals in the area of expressive and receptive speech, since November 5, 2020, in accordance with 34 CFR §§300.101 and 324.

2. The PGCPS has not ensured that the parent was provided with reports of the student's progress toward achieving the annual IEP goals for the second quarter of the 2020-2021 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS has not ensured that a reevaluation that began on September 18, 2020 was completed within the required timelines, in accordance with COMAR 13A.05.01.06.
4. The PGCPS has not ensured that the student has been provided with the adult support during the provision of speech and occupational therapy (OT), as required by the IEP, since July 2020, in accordance with 34 CFR §§ 300.101 and .323.
5. The PGCPS has not ensured that the IEP has addressed the student's identified learning behavior needs since October 2020, in accordance with 34 CFR §300.324.
6. The PGCPS did not ensure that the IEP team followed proper procedures to obtain parental consent before determining that the student will receive instruction and assessment using alternate standards, in accordance with Md. Code Ann., Educ. §8-405.

BACKGROUND:

The student is nine (9) years old and is identified as a student with Autism under the IDEA. He has an IEP that requires the provision of special education instruction.

The student attended the [REDACTED] School, until the March 16, 2020 Statewide closure of all school buildings as the result of the national COVID-19 pandemic.

ALLEGATION #1 ADDRESSING LACK OF EXPECTED PROGRESS IN EXPRESSIVE AND RECEPTIVE LANGUAGE

FINDINGS OF FACTS:

1. On November 5, 2020, a progress report was issued which stated that the student was not making sufficient progress towards goals, to be achieved by June 23, 2021, in the areas of expressive and receptive language, due to lack of engagement despite redirection from his Dedicated Aide (DA).
2. The PGCPS acknowledges that the IEP team did not meet in November 2020 to address the lack of expected progress towards the student's expressive and receptive language annual goals.
3. Another progress report was issued on February 1, 2021. While this report reflects that the student was beginning to make some progress towards the student's expressive and receptive language annual goals, it did not reflect that the progress was sufficient for the student to achieve the annual goals by June of 2021.

4. There is no documentation that the IEP team has convened to address the continued lack of expected progress on the expressive and receptive language goals.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #1 - #4, the MSDE finds that the team has not met to address the student's lack of progress in expressive and receptive language, since November 5, 2020, in accordance with 34 CFR §§300.101 and 324. Therefore, this office finds that there was a violation with respect to this allegation.

**ALLEGATION #2 PROVISION OF PROGRESS REPORTS
FOR THE SECOND QUARTER OF THE 2020-2021
SCHOOL YEAR**

FINDINGS OF FACTS:

5. The IEP requires that reports of progress towards achievement of the student's annual IEP goals be provided in writing to the parent on a quarterly basis.
6. There is documentation that the PGCPS provided the parent with reports of the student's progress toward achieving the annual IEP goals for the second quarter of the 2020-2021 school year.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #5 - #6, the MSDE finds that the PGCPS did provide the parent with reports of the student's progress toward achieving the annual IEP goals as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find a violation with respect to this allegation.

**ALLEGATIONS #3 AND #5 REEVALUATION TIMELINE AND
ADDRESSING LEARNING BEHAVIOR
NEEDS**

FINDINGS OF FACTS:

7. The IEP in effect in October 2020, dated June 25, 2020, states that one of the areas affected by the student's disability is his behavior during social interaction. The present levels of performance in the area of behavior/social interaction skills indicates that the student experiences difficulty following socially accepted norms and identifying and understanding emotions. The student exhibits parallel play instead of interacting with peers and he imitates the words and phrases used by his teachers and peers. The student also requires redirection from distractions in order to rejoin the group and complete tasks.
8. The student has a goal related to social interaction skills that states that the student will make requests from his peers and demonstrate the ability to participate in taking turns.

9. In addition, the student has a goal to improve his sensory processing skills which is also designed to improve his participation in activities and ability to engage in academic tasks.
10. The student's accommodations and supplemental aids and supports related to learning behaviors include:
 - Redirection of student;
 - Frequent breaks;
 - Reduction of distractions to self;
 - Provision of adult support;
 - Use of token economy system;
 - Use of 'first/then' board;
 - Encouragement/reinforcement of appropriate behavior;
 - Strategies to initiate and sustain attention;
 - Provision of sensory diet; and
 - Access to the school calming room.
11. The IEP also requires special education classroom instruction to assist him in achieving the goals.
12. The IEP also includes a Behavior Intervention Plan (BIP). The identified behaviors include verbal disruption and being out of his assigned area; these behaviors serve to gain adult attention, obtain access to an activity or object, provide sensory relief and/or avoid a non-preferred activity. Prevention strategies include planned ignoring, redirection, proximity control, rewards for appropriate behavior, use of social stories and three-step compliance. The replacement behaviors include using picture communication symbols or words to communicate his wants and needs. The data collection methods are frequency data and permanent products such as behavior charts or work samples. It is noted that the BIP states that progress notes and behavior charts would be sent home daily to be reviewed by the student's parent.
13. The student has had difficulty, since beginning of the 2020-2021 school year, with engaging in distance learning due to inattention and distractibility, despite the assistance of the virtual additional adult support.
14. A written summary of an IEP team meeting held on September 18, 2020, documents that the team recommended that assessments be conducted in the following areas:
 - Assistive Technology (AT) related to fine motor skills
 - Communication in the areas of expressive/receptive language, pragmatics and articulation
 - Functional/Adaptive Performance
 - Intellectual/Cognitive Functioning
 - Academic Performance in the areas of reading, math and written language
 - Executive Functioning/Attention

15. On November 9, 2020, the complainant and student's parent requested additional observations by a PGCPS autism specialist and behavior specialist. Those observations were subsequently performed.
16. On December 21, 2020, a psychological assessment was conducted in person, in conjunction with a virtual classroom observation. The recommendations for the student included:
 - Visual presentation of information
 - Use of manipulatives
 - Technology integration
 - Hands on activities
 - Provision of a highly structured educational program that provides him with adequate adult support
 - Provision of an educational setting that where he can access both academic and functional skills
17. On January 27, 2021, an academic assessment was administered in person to the student which reflected the need for significant modifications to the grade level curriculum including: visual supports, manipulatives, sentence frames, wait time, and movement breaks.
18. On February 16, 2021, a behavioral observation was conducted in the virtual classroom, during which many of the off-task behaviors noted previously by the school staff were observed. The continuation of the dedicated aid was recommended, as well as other supports mentioned in the student's IEP.
19. There is documentation that the IEP team met on March 15, 2021 to consider assessment results. However, the IEP team was unable to complete the reevaluation on that date.

DISCUSSION/CONCLUSIONS:

Allegation #3:

Based on the Findings of Facts #14 and #19, the MSDE finds that, the reevaluation began on September 18, 2020 has not been completed within the required timelines, in accordance with COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #5:

Based on the Findings of Facts #7 - #13 and #15 - #18, the MSDE finds that, while the reevaluation has not been completed, the IEP has addressed the student's learning behavior needs identified by the data since October 2020, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation has occurred with respect to this allegation.

ALLEGATION #4 **PROVISION OF ADULT SUPPORT DURING SPEECH AND
OCCUPATIONAL THERAPY RELATED SERVICES**

FINDINGS OF FACTS:

20. The IEP states that the student “needs the assistance of a Dedicated Aide [DA], in order to remain in bounds in the classroom, remain on task and for safety around the school. He is a very busy student who displays many off task behaviors within the classroom.” The IEP does not address whether the DA will be provided during the provision of related services.
21. There are electronic mail messages (emails) between the parent and the school staff, dated October 29, 2020, that document that the parent expressed concern that the DA was not present during OT and speech sessions, and the school staff responded that DAs do not attend OT and speech therapy sessions unless the therapist requests it to assist with behaviors.
22. There are also emails between school staff and the student’s parent, dated October 29, 2020, that document that the student’s DA provided assistance to the student during some speech/language sessions.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #20 - #22, the MSDE finds that, while there is documentation that the DA has provided assistance to the student during the provision of speech/language therapy, the IEP does not address DA support during the provision of related. As a result, this office finds that the IEP is not written clearly with respect to the DA support, and thus PGCPs could not ensure it was implemented as intended by the IEP team, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #6 **CONSENT FOR INSTRUCTION AND ASSESSMENT
USING ALTERNATE STANDARDS/ASSESSMENT**

FINDINGS OF FACTS:

23. The IEP, dated June 25, 2020, which the IEP team is in the process of reviewing and revising, reflects that the student would be instructed using alternate standards and would participate in alternate assessments.
24. On July 16, 2020, the student’s parent signed a refusal to allow the IEP team to provide instruction and assessments using alternate standards for the upcoming school year.
25. There is documentation that, since receiving the parent’s refusal, the student has been provided with instruction and assessment using regular standards.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #23 - #25, the MSDE finds that the PGCPS followed proper procedures to obtain parental consent before providing instruction and assessment using alternate standards, in accordance with Md. Code Ann., Educ. §8-405. Therefore, this office does not find 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 below¹

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770 or by email at nancy.birenbaum@maryland.gov.

Student Specific

The MSDE requires the PGCPS to provide documentation that the IEP team has completed the following:

- a. Addressed the student's lack of progress in expressive and receptive language;
- b. Completed the reevaluation which was initiated in September 2020;
- c. Revised the IEP to ensure it is written clearly with respect to the provision of DA support during related services, and

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

² The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

- d. Determined the amount and nature of compensatory services or other remedy to redress the violations found in this Letter of Findings.

School Based

The MSDE requires the PGCPS to provide documentation of the steps it has taken to ensure violations do not recur at [REDACTED] School and how the PGCPS will 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 student's parent and the school system 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 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,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Early Intervention/Special Education Services

MEF:dee

- c: [REDACTED]
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