



August 5, 2022

Ms. Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

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: #22-184

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 June 7, 2022, the MSDE received a complaint from Ms. Jessica Williams, 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 allegation that the PGCPS has not ensured that the student has been consistently provided with the special education support and services as required by his Individualized Education Program (IEP) since June 2021, in accordance with 34 CFR §§300.101 and .323. Specifically, it was alleged that:

- a. The student was not provided with special education instruction;
- b. The student was not provided with a "dedicated aide/adult support";
- c. The student was not provided with "toileting protocol"; and
- d. The student was not provided with "home school communication."

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with Multiple Disabilities under the IDEA. He is placed by the PGCPs at the [REDACTED] School, a private separate special education school, and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

December 7, 2020 IEP

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on December 7, 2020. The IEP requires 32.5 hours per week of specialized instruction and daily adult support "throughout the day for maintaining focus and attention as well as managing behaviors and implementing a toileting protocol." The IEP further requires the following daily toileting protocol that includes the following:

When in the school setting, with adult support the student will follow a toileting protocol. Upon his arrival at school the student will be taken to the restroom by school staff and he will remove the disposable pull-up he was wearing during the morning bus ride. School staff will complete a daily log, indicating the pull-up was removed and if it was wet or dry. Throughout the school day, school staff will record on the daily log sheet what time the bathroom was used by the student and what if any elimination occurred on each occasion. School staff will have the student use the restroom 10- 15 minutes before dismissal and then have him put on a fresh pull-up for the bus ride home. A copy of the daily bathroom log will be sent home.

2. Reports of the student's progress prepared on June 11, 2021, August 3, 2021, and October 25, 2021, indicate that the student is provided with specialized instruction in the areas and skills identified by the IEP team as areas of need.

November 12, 2021 IEP

3. The student's IEP developed on November 12, 2021, requires thirty (30) hours per week of specialized instruction and daily 1:1 adult support, "throughout the day for maintaining focus and attention as well as managing behaviors and implementing a toileting protocol." The IEP team determined that the student's toileting protocol developed on December 7, 2020, would continue to be required for the student.
4. Reports of the student's progress prepared on January 21, 2022, April 22, 2022, and June 3, 2022, indicate that the student is provided with specialized instruction in the areas and skills identified by the IEP team as areas of need.

5. There is documentation that the school staff recorded the times the bathroom was used on the student's daily toileting log; however, it does not demonstrate that the school staff recorded the information required by his toileting protocol, or that the bathroom log was provided to the parents as required by his IEP.
6. There is documentation that on multiple days the student's daily adult support was not provided as required by his IEP.
7. There is no documentation that the student's IEP requires that he be provided with "home school communication."

CONCLUSIONS

Provision of Specialized Instruction

Based on the Findings of Facts #1 - #4, the MSDE finds that the PGCPs has ensured that the student has been consistently provided with the special education instruction as required by his IEP since June 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation has occurred with respect to this aspect of the allegation.

Provision of Adult Support

Based on the Findings of Facts #1, #3-#6, the MSDE finds that the PGCPs has not ensured that the student has been consistently provided with "dedicated aide/adult support", and "toileting protocol" as required by his IEP since June 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this allegation.

Provision of Home/School Communication

Based on the Findings of Fact #7, the MSDE finds that the PGCPs was not required to ensure that the student has been consistently provided with "home school communication" as it is not required by his IEP since June 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation has occurred with respect to this aspect of 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 non-compliance 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 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.

Student-Specific

The MSDE requires the PGCPs to provide documentation by October 1, 2022, of the following:

- a. That the student is provided with adult support and toileting protocol as required by his IEP.
- b. That the IEP team has convened to determine whether the violations related to provision of adult support and toileting protocol, 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 parents are 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

The MSDE requires the PGCPs to provide documentation by October 1, 2022, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the provision of supplementary aids and services under the IDEA. The documentation must include a description of how the PGCPs will evaluate the effectiveness of the steps taken and monitor to

¹ 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, 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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ensure that the violations related to the implementation of supplementary aids and services do not recur. 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

MEF/tg

c: [REDACTED]
Monica Goldson
Barbara VanDyke
Monica Wheeler
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