



August 29, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

Trinell Bowman  
Associate Superintendent-Special Education  
Prince George's County Public Schools  
John Carroll Administration Building  
1400 Nalley Terrace  
Landover, MD 20785

RE: [REDACTED]  
Reference: #22-199

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 July 12, 2022, the MSDE received a complaint from [REDACTED], hereafter, "the complainant," on behalf of her son, 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 did not follow proper procedures when determining the student's educational placement for the 2021- 2022 school year, in accordance with 34 CFR §§300.114 - .116.
2. The PGCPS did not ensure that the Individualized Education Program (IEP) team addressed the parent's concerns regarding the student's behavior since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is nine years old and is identified as a student with Autism under the IDEA. He attends the [REDACTED] [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. December 13, 2021, the IEP team met to review and revise, as appropriate, the student's IEP, to conduct an annual review of the student's IEP. As part of that review, the school-based members of the team reviewed all areas of the IEP, reviewed his present levels of performance, developed new IEP goals, and addressed transportation concerns regarding behavior. During the meeting, the complainant proposed a more restrictive placement for the student and did not agree for the student to participate in the alternate assessments/ and or the alternate instructional standards. The IEP team reviewed options for the student's least restrictive environment (LRE) including placement in the general education setting, private placement, public separate day school, or home and hospital. The IEP team proposed the continuation of the current special education placement in a public separate day school. The IEP team rejected options for the student's LRE in the general education setting, private placement, and home and hospital teaching services and determined that continuation in a public separate day school was appropriate for the student.
2. On January 26, 2022, the IEP team met to discuss the parent's disagreement with the student's LRE. The IEP team again determined that a public separate day school was the appropriate learning environment based on classroom observations and assessments done in 2017. The parent disagreed with the team's decision on the basis that the assessment data supporting the decisions were "out of date". She further explained their concern that the instruction the student was receiving is "simple" and that the student required a more rigorous academic setting. The IEP team agreed to update assessment data for the student including an adaptive and functional skills assessment, an occupational therapy assessment, and a speech and language assessment. The parent provided consent for the assessments on the same day.
3. During the January 26, 2022, IEP team meeting, the parent also proposed that the student pursue a high school diploma. School-based members of the IEP team explained that if the parent withdrew consent for the student to participate in the alternative framework, the student would attend a "regular school without the support from special education".
4. On May 11, 2022, the IEP team met to continue the discussion of the parent's disagreement concerning the student's LRE and to review assessments. Although the IEP team determined that the student would continue to receive his instruction in a public separate day school setting, the team did not provide a basis for this determination.
5. During the May 11, 2022, IEP team meeting, the parent requested input from an Applied Behavioral Analysis specialist. In response, the school-based members of the IEP stated that a Functional Behavior Assessment (FBA) was not conducted for the student because the student's "behaviors are not detrimental to peers and himself" and that they were "merely caused by frustration because of his disability". The IEP team agreed that the student would be provided with a "chew tube" to respond to the student biting his hand. The IEP team did not otherwise consider the need for revisions to the student's IEP after reviewing the assessment data.
6. The IEP team met on June 22, 2022, to review and revise, as appropriate the student's IEP and again consider the complainant's proposal for a more restrictive LRE for the student. During the meeting, the parent proposed a change of placement for the student to include enrollment in a non-public school. The IEP team rejected the proposed change of placement because "the student has shown progress in his present level of performance". The parent further shared her concerns that the

student displays uncontrollable behaviors at home. In response, the school-based members of the IEP team agreed to provide the parent with strategies that may help with his behaviors in the home setting.

### **CONCLUSIONS:**

#### **Allegation #1: Placement Determination**

In this complaint, the complainant alleges that the PGPCS did not follow proper procedures when determining the student's educational placement for the 2021- 2022 school year.

Based on the Findings of Facts #1 to #6, the MSDE finds that the PGPCS did not follow proper procedures when determining the student's placement when it explained that the student's participation in the Alternate Framework would result in the student being "removed" from special education services and did not consider a continuum of placements when determining that the student would continue to be placed in a public separate day school during the 2021- 2022 school year, in accordance with 34 CFR §§300.114 - .116. Therefore, this office finds that a violation occurred with respect to the allegation.

#### **Allegation #2: Address Parent Concerns**

In this complaint, the complaint alleges that the PGPCS did not ensure that the IEP team addressed the parent's concerns regarding the student's behavior since the start of the 2021- 2022 school year.

Based on Findings of Facts #1 and #6, the MSDE finds that the IEP team did not consider behavioral supports in response to the parent's concerns regarding the student's behavior, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this allegation.

#### **Additional Violation Identified During the Investigation: Evaluation procedures**

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 90 days of the date, the team determined that assessments are required (COMAR 13A.05.01.06). Based on the Findings of Facts #2 and #4, MSDE finds that the PGPCS did not follow proper procedures when conducting a reevaluation of the student since January 26, 2022, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06. Therefore, this office does 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 below.

The 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 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.<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:**

The MSDE requires the PGCPS to reconvene an IEP team meeting by November 1, 2022, to appropriately determine the placement in which the student receives special education instruction and related services for the 2022-2023 school year and that it has addressed the parent's behavioral concerns and revised the IEP, as appropriate.

The IEP team must determine whether the violations related to the investigation, including the delay in completing the evaluations, 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.

**School-Based**

The MSDE requires the PGCPS to provide professional development to the staff at [REDACTED] by December 15, 2022, addressing Parental Consent for participation in the Alternate Framework, the ramifications if the parent does not provide consent, what steps should be taken if the parent does not provide consent, consideration of the full continuum placement options and documenting why or why not they are appropriate, properly considering behavioral concerns, state and federal evaluation timelines, and the provision of proper prior written notice, to ensure that the violations do not recur at that school again.

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.

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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, 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.

<sup>2</sup> 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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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  
Barbara VanDyke  
Darnell Henderson  
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Gerald Loiacono  
Stephanie James  
Diane Eisenstadt