




October 24, 2022




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

RE: 
Reference: #23-034

Dear Parties:


The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 September 2, 2022, the MSDE received a complaint from Mr.  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 did not ensure that the reevaluation of the student started on May 18, 2022, was completed in a timely manner, in accordance with COMAR 13A.05.01.06.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. The student is placed by the PGCPS at  a nonpublic, separate, special education school.

FINDINGS OF FACT:

1. The student's current IEP is dated May 18, 2022. At the May 18, 2022, annual review Individualized Education Program (IEP) team meeting, the complainant requested updated academic assessments in the areas of mathematics, reading, and written language. Documentation from that meeting indicates that although the team had no additional questions about the student's academics, the team agreed to conduct the assessments requested by the complainant.

2. There is documentation that the complainant provided consent for the assessments to be completed on June 6, 2022.
3. The assessment report was conducted on September 1, 2022, and the written report was dated September 6, 2022. There is documentation that the completed assessment was sent to the complainant on September 6, 2022.
4. There is no documentation that the complainant agreed to extend the ninety (90) day timeline to complete the evaluation process, although there is documentation that the IEP team attempted to begin scheduling an IEP team on October 7, 2022.
5. There is an IEP meeting scheduled for October 27, 2022, to review the assessment and complete the re-evaluation process.

DISCUSSION/CONCLUSIONS:

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 ninety (90) days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

Based on Findings of Fact #1- #5, the MSDE finds that the PGCPSS did not ensure that the reevaluation of the student started on May 18, 2022, was completed in a timely manner, in accordance with COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred 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, 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.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 Ms. 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.

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.

Student Specific

The PGCPS is required to convene an IEP team meeting to determine whether there was any negative impact to the student's educational progress caused by the delay in completing the evaluation process in a timely manner. If so, the IEP team must determine appropriate compensatory services or other remedy to redress the negative impact and develop a plan for that impact to be implemented within one (1) 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

The PGCPS is required to complete an audit of 20 randomly selected students attending the same school as the student who have had a re-evaluation completed within the last year. They will provide the MSDE data for completion of the re-evaluation process for each student. The report will be provided to the MSDE by December 15, 2022. If the data reflects noncompliance, the PGCPS will develop a plan to address the areas of concern and monitor the noncompliance.

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:ab

c: Monica Goldson
Keith Marston
Darnell Henderson
Alison Barmat
Diane Eisenstadt
Gerald Loiacono