Mohammed Choudhury





January 6, 2023

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, MD 20785

RE: Reference: #23-083

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 November 9, 2022, 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.

MSDE investigated the following allegations:

- 1. The PGCPS has not ensured that the student's progress towards achievement of the annual Individualized Education Program (IEP) goals were reported using the evaluation method described in the IEP, since November 9, 2021, in accordance with 34 CFR §§300.101 and .323.
- 2. The PGCPS did not ensure that the parent was provided with progress reports toward achieving the annual IEP goals since November 9, 2021, in accordance with 34 CFR §300.320.
- 3. 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 November 9, 2021, in accordance with 34 CFR §300.324.
- 4. The PGCPS did not follow proper procedures when disciplinarily removing the student from school since November 9, 2021, in accordance with 34 CFR §300.530, and COMAR 13A.08.03.07 and 13A.08.03.08. Specifically:

- a. The PGCPS has not conducted a Functional Behavior Assessment (FBA) and developed a ``` Behavior Intervention Plan (BIP);
- b. The PGCPS has not provided services to the student after being removed from school for ten (10) school days; and
- c. The PGCPS has not conducted a manifestation determination meeting.
- 5. The PGCPS has not ensured that the student has been consistently provided with reading and math interventions, monitoring of independent work, home to school communication, and adult support as required by the IEP since November 9, 2021, in accordance with 34 CFR §§300.101 and .323.
- 6. The PGCPS has not ensured that the student's IEP contains appropriate measurable annual goals designed to meet his written expression, reading phonics and decoding needs in effect since November 9, 2021, in accordance with 34 CFR §300.320.

BACKGROUND:

The student is fourteen (14) years old and was identified as a student with an Emotional Disability under the IDEA. He attends School and has an IEP that requires the provision of specialized instruction and related services.

ALLEGATION #1:

EVALUATION METHOD USED TO REPORT PROGRESS

FINDINGS OF FACTS:

- 1. The student's IEP in effect on November 9, 2021 was developed on December 9, 2020. The IEP requires the reporting of progress towards the achievement of annual goals quarterly and in writing to the parent. The evaluation method of the annual academic reading and math goals requires the use of assignments, homework, and assessments. The evaluation method of the annual behavioral goal requires the use of an "observation record."
- 2. The student's IEP dated December 8, 2021, requires the reporting of progress towards the achievement of annual goals quarterly and in writing to the parent. The evaluation method of the annual academic reading comprehension goal requires the use of "classroom based assessment: text dependent questions, assignments, homework, and assessments." The evaluation method of the annual academic math goal requires the use of "math assignments, homework, and assessments." The evaluation method of the annual behavioral goal requires the use of an "observation record."

Reading Comprehension

3. The progress reported on this annual IEP goal in December 2021, reflects that the student has not made progress on the goal. The student was playing games on his Chromebook and not completing assignments. The student was offered additional time with one to one assistance in an attempt to increase work completion. There is no data from assignments, homework or assessments reported to reflect progress as required by the goal.

- 4. The progress reported on this annual IEP goal in February 2022, reflects that the student "is consistent with this goal and is able to complete this goal in 2 out of 4 with 60% accuracy." There is no reflection of where the progress data is from, whether it is from assignments, homework, or assessments, as required by the goal.
- 5. The progress reported on this annual IEP goal in April 2022, reflects that the student "is able to complete this goal in 2 out of 4 with 60% accuracy. Additional opportunities were provided however, (the student) either refused to complete assigned tasks or was not available for instruction." There is no reflection of where the progress data is from, whether it is from assignments, homework, or assessments, as required by the goal.
- 6. The progress reported on this annual IEP goal in June 2022, reflects that the student "is able to complete this goal in 2 out of 4 with 70% accuracy. His current grade in reading is 84%. He is able to write 2 pieces of supporting evidence with 70% accuracy in 3 out of 4 claims." There is no reflection of where the progress data is from, whether it is from assignments, homework, or assessments, as required by the goal.
- 7. The progress reported on this annual IEP goal in November 2022, reflects that the student's progress was reported using the evaluation methods, data reported from assignments, homework, and assessments, required by the IEP.

Math Problem Solving

8. The progress reported on this annual IEP goal in December 2021, February 2022, April 2022, June 2022, and November 2022 reflects that the student's progress was reported using the evaluation methods, with math assignments, homework or assessments identified as the data sources, as required by the IEP.

Social Emotional/Behavioral

9. The progress reported on this annual IEP goal in December 2021, February 2022, April 2022, June 2022, and November 2022 reflects that the student's progress was reported using an observation record as the evaluation method, as required by the IEP.

CONCLUSIONS:

Based on the Findings of Facts #1 to #6, MSDE finds that the PGCPS has not ensured that the student's progress towards achievement of the annual reading comprehension goal were reported using the evaluation methods to obtain data to determine progress, as described in the IEP, in December 2021, February 2022, April 2022, and June 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

Based on the Findings of Facts #1, #2, and #7, MSDE finds that the PGCPS has ensured that the student's progress towards achievement of the annual reading comprehension goal were reported using the evaluation method described in the IEP, in November 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Facts #1, #2, #8, and #9, MSDE finds that the PGCPS has ensured that the student's progress towards achievement of the math problem solving and social emotional/behavior goals were reported using the evaluation method described in the IEP, in December 2021, February 2022, April 2022, June 2022, and November 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

ALLEGATION #2 and #3: PROVISION OF PROGRESS REPORTS AND ADDRESSING THE LACK OF THE PROGRESS

FINDINGS OF FACTS:

- 10. There is documentation that the parent was provided with the quarterly progress reports toward achieving the annual IEP goals for December 2021 and February 2022, as required by the IEP.
- 11. There is no documentation that the parent was provided with the quarterly progress reports toward achieving the annual IEP goals for April 2022, June 2022, and November 2022, as required by the IEP.
- 12. Reports of the student's progress reported on December 6, 2021, for the student's annual reading comprehension, math problem solving, and social emotional/behavioral goals reflect the student was not making sufficient progress to achieve the goals.
- 13. There is documentation that the IEP team convened on December 8, 2021 and addressed the student's lack of progress towards achieving the annual IEP goals.
- 14. Reports of the student's progress reported on April 7, 2022, for the student's annual reading comprehension goal reflect the student was not making sufficient progress to achieve the goal. There is no documentation that the IEP team convened and addressed the student's lack of progress towards achieving the annual IEP goal.
- 15. Reports of the student's progress reported on November 21, 2022, for the student's annual social emotional/behavioral goal reflect the student was not making sufficient progress to achieve the goal.
- 16. There is documentation that the IEP team convened on December 5, 2022, and addressed the student's lack of progress towards achieving the annual IEP goals.

CONCLUSIONS:

Provision of Progress Reports

Based on the Findings of Fact #10, MSDE finds that the PGCPS did ensure that the parent was provided with progress reports toward achieving the annual IEP goals for December 2021 and February 2022, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation has not occurred with respect to this aspect of the allegation.

Based on the Findings of Fact #11, MSDE finds that the PGCPS did not ensure that the parent was provided with progress reports toward achieving the annual IEP goals for April 2022, June 2022, and November 2022, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

Addressing the Lack of the Progress

Based on the Findings of Facts #12, #13, #15, and #16, MSDE finds that the PGCPS has 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, for the progress period of December 6, 2021 and November 21, 2022, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation has not occurred with respect to this aspect of the allegation.

Based on the Findings of Fact #14, MSDE finds that 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, for the progress period of April 7, 2022, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

ALLEGATION #4:

DISCIPLINARY PROCEDURES

FINDINGS OF FACTS:

- 17. On December 6, 2021, the student was involved in an incident resulting in a disciplinary removal beginning on December 7, 2021, with a proposed return date of December 13, 2021.
- 18. The student had nine (9) cumulative days of prior disciplinary removals during the 2022-2023 school year. The current disciplinary removal would have resulted in 13 days of removal, resulting in the initiation of the student's procedural safeguards.
- 19. On December 8, 2021, the IEP team held a manifestation determination meeting; however, the parent was not in attendance. The summary of the IEP team meeting reflects that the IEP team reviewed information that the student was involved in an incident.
- 20. The team determined that the cumulative removals constituted a change in placement based on this and prior removals. The incident was determined not to be a manifestation of the student's disability.
- 21. During the remainder of removal, the student was to receive one reading and math instruction in his home for thirty minutes via ZOOM. The IEP team agreed to conduct a Functional Behavior Assessment (FBA).
- 22. There is documentation that on December 8, 2021, school staff provided a ZOOM link to the parent for the provision of academic services while the student was at home.
- 23. There is no documentation that the student received reading and math instruction after being removed from school for ten (10) days.
- 24. The Notice and Consent for Assessment dated October 27, 2021 reflects that the parent provided consent for the FBA on December 7, 2021.¹
- 25. There is documentation that the FBA was completed on January 19, 2022.

¹ There is inconsistent dating on the documents. The IEP team meeting to recommend the FBA was convened on December 8, 2021; however, parental consent for the FBA is dated December 7, 2021.

26. On December 5, 2022, the IEP team met and reviewed the FBA. The IEP team determined that the student has two behaviors to "focus on in the creation of a BIP." To date, there is no documentation that the IEP team revised an earlier BIP based on the new information from the FBA.

CONCLUSIONS:

FBA and **BIP**

Based on the Findings of Facts #24-#26, MSDE finds that the PGCPS did not follow proper procedures by completing and reviewing the student's FBA until December 5, 2022, almost one year after the parent provided consent for it to be conducted, or reviewing and revising the existing BIP, in accordance with 34 CFR §300.530, and COMAR 13A.08.03.07 and 13A.08.03.08. Therefore, this office finds that a violation did occur with respect to this aspect of the allegation.

Provision of Special Education Services

Based on the Findings of Fact #21, MSDE finds that the PGCPS did not follow proper procedures when disciplinarily removing the student from school by failing to provide services to the student since December 7, 2021, in accordance with 34 CFR §300.530, and COMAR 13A.08.03.07 and 13A.08.03.08. Therefore, this office finds that a violation has occurred with respect to this aspect of allegation.

Manifestation Determination Meeting

Based on the Findings of Facts #19 and #20, MSDE finds that the PGCPS did follow proper procedures when disciplinarily removing the student from school by convening a manifestation determination meeting on December 8, 2021, in accordance with 34 CFR §300.530, and COMAR 13A.08.03.07 and 13A.08.03.08. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

The instructional setting for the provision of educational services to a student who has been disciplinarily removed from school may not be a student's home (COMAR 13A.08.03 and 13A.05.01.10C(6)).

Based upon Findings of Fact #21, MSDE finds that the PGCPS did not follow proper procedure when recommending the reading and math instructional services be provided at the student's home on December 8, 2021, in accordance with COMAR 13A.08.03 and COMAR 13A.05.01.10C(6). Therefore, this office finds that a violation occurred.

ALLEGATION #5: PROVISION OF READING AND MATH INTERVENTIONS,
MONITORING INDEPENDENT WORK, HOME TO SCHOOL

COMMUNICATION, AND ADULT SUPPORT

FINDINGS OF FACTS:

27. The student's IEPs dated December 9, 2020, and December 8, 2021, requires that the student receive a research or evidence based reading and math intervention at least thirty (30) minutes per

week, daily monitoring of independent work across all content, daily adult support to assist the student transition to and from class, and daily home-school communication system.

- 28. There is documentation that from November 9, 2021 to December 6, 2021, the student received a research or evidence based reading intervention as required by the IEP.
- 29. There is no documentation that the student was consistently provided with a research or evidence based reading intervention since December 7, 2021, as required by the IEP.
- 30. There is no documentation that the student was consistently provided with a research based math intervention, daily monitoring of independent work across all content, daily adult support, and a daily home-school communication system, since November 9, 2021 as required by the IEP.

CONCLUSIONS:

Based on the Findings of Facts #27 and #28, MSDE finds that the PGCPS did ensure that the student has been consistently provided with reading intervention, as required by the IEP from November 9, 2021 to December 6, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred with respect to this aspect of the allegation.

Based on Findings of Facts #27 and #29, MSDE finds that the PGCPS has not ensured that the student has been consistently provided with a research or evidence based reading intervention as required by the IEP since December 7, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

Based on Findings of Facts #27 and #30, MSDE finds that the PGCPS has not ensured that the student has been consistently provided with a research or evidence based math intervention, monitoring of independent work across all content, adult support, and a home-school communication system as required by the IEP since November 9, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

ALLEGATION #6: APPROPRIATE MEASURABLE ANNUAL GOALS

FINDINGS OF FACTS:

- 31. The student's IEP in effect on November 9, 2021 was developed on December 9, 2020. The IEP reflects that the student has identified needs in the areas of math problem solving, reading comprehension, and social emotional/behavioral. The areas impacted by the student's suspected disability are written communication, math, reading, and social emotional. There are no annual IEP goals addressing written communication in the student's IEP.
- 32. The student's present level of performance in the area of reading comprehension reflects that the student is able to "summarize the main idea of a text and recall 3-4 key details about the text." The student struggles with citing textual evidence to explain how it supports a claim. The student's reading comprehension goal states "given a prompt with a claim (verbally or in writing), and after reading an informational reading text will cite (3) pieces of textual evidence and explain how it supports the claim with (1) choice of teacher support (e.g. graphic organizer, sentence starters, guiding questions), with 75% accuracy as measured by a teacher-created rubric by the next annual review."

- 33. The student's present level of performance in the area of math problem solving reflects that the student is able to independently perform simple computations, multiply multi-digit numbers by two-digit numbers, divide multi-digit whole numbers, express fractions as a percent and describe, extend, analyze, and make generalizations about numeric patterns. The student struggles with independently applying math skills to real world situations and word problems as well as determining the sum difference of word problems involving fractions with like and unlike denominators. The student's math problem solving goal states "given (4) word problems involving addition or subtraction of fractions with like and unlike denominators and key words highlighted, (the student) will solve the word problem using a visual fraction model and/or writing an equation to determine the sum or difference, with (75%) accuracy for 2 out of 3 trials by the next annual review."
- 34. The student's present level of performance in the area of social emotional/behavioral reflects that the student is able to follow set rules when provided clear and concise directions and actively works to stay on task. The student struggles with paying attention during class time, demonstrating self-direction, exhibiting self-control and regulation. The student's social emotional/behavioral goal states "given an assignment or activity (the student) will demonstrate on task behavior in the general education setting for 75% of intervals during a 15 minute period, with the use of self-regulation and adult reminders, in % trials, as measured by observation and data by the next annual review."
- 35. The student's IEP revised on December 8, 2021, reflects that the student has identified needs in the areas of math problem solving, reading comprehension, social interaction skills and social emotional/behavioral. The areas impacted by the student's suspected disability are written communication, math, reading, and social emotional.
- 36. The student's present level of performance in the area of reading comprehension reflects that the student decodes at a beginning level and reads at a sixth grade level. The student is often distracted by his and various objects that cause him to not attempt his class assignments. The student's reading comprehension goal states "By 12/08/2022, when given a short excerpt from (the student) will write 3 pieces of supporting evidence with 75% accuracy in 3 out of 4 claims independently with the support of (e.g. graphic organizer, sentence starters, guiding questions etc.) as measured by Classroom-Based assessments.²
- 37. The student's present level of performance in the area of math problem solving reflects that the student's math performance is kindergarten level to second grade. The student is easily distracted, does not attempt tasks regularly, and requires daily redirection to remain on task. The student's math problem solving goal states "By 12/08/2022, Given (4) word problems involving addition or subtraction of fractions with like and or unlike denominators and keywords highlighted, (the student) will solve work problems by using a visual fraction model and/or writing an equation to determine the sum or difference, with 75% accuracy for 3 out of 4 trials by the next annual review."
- 38. The student's present level of performance in the area of social emotional/behavioral reflects that the student throws objects, touches other people's property, refuses to keep on a mask, chokes peers, uses inappropriate language, no attempt to begin task, walks out of class, damages school property, insubordination, pushing other students during transitions, fighting students, and making

² Although this is titled as a Reading Comprehension goal, it also combines W.8.2, requiring the student to write explanatory text to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

inappropriate comments to other students. The student's social emotional/behavioral goal states "By 12/08/2022, when given an assignment or activity (the student) will demonstrate on task-behavior in the general education setting for 75% of the time during a 15 minute period, with the use of self-regulation and adult reminders, in 4/5 trials, as measured by observation and data."

39. The student's present level of performance in the area of social interaction skills reflects that with highly individualized support the student is able to complete a 5 minute academic task. The student requires close monitoring to deter inappropriate behaviors. The student's social interaction skills states "By 12/9/2021, during a transition period in the hallway (or another unstructured social or school setting), (the student) will maintain physical distance from peers (at least 3 feet), use 1 prosocial communication skill with the another student (e.g. make eye contact and nod or ask "how's it going") for 3 out of 4 interactions with peers.

CONCLUSIONS:

Based on the Findings of Facts #31 to #39, MSDE finds that the PGCPS has ensured that the student's IEP in effect since November 9, 2021, contains appropriate measurable annual goals designed to meet his reading phonics and decoding needs, and written communication needs, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation did not occur 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, 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.³ 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.⁴ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

MSDE requires the PGCPS to provide documentation by March 10, 2023, that the school system has taken the following actions:

³ 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.

⁴ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

- a. Convened an IEP team meeting to review the student's progress on his reading comprehension goal and determined that it accurately reflects progress aligned with the goal requirements and that the student's written communication needs are addressed by the IEP. If the student is not making sufficient progress when accurately reported, that the student's the team will determine whether the student's progress was negatively impacted, and if so, determine appropriate compensatory services to redress the violation;
- b. Provided the parent with copies of all progress reports;
- c. Reviewed and revised the student's BIP based on the new information from the FBA;
- d. Provide documentation that the student is being provided with a reading intervention, math intervention, daily monitoring of independent work across all content, adult support, and a home-school communication system as required by the IEP;
- e. Convened an IEP team meeting and determined whether the violations identified in this Letter of Findings regarding the provision of the reading intervention, math intervention, daily monitoring of independent work across all content, adult support, and a home-school communication system 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;
- f. Determined appropriate compensatory services for the lack of provision of services while the student was disciplinary removed from the school setting over 10 school days; and
- g. Provided the parents with prior written notice after meeting to address action a, c, e, and f above.

The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

MSDE requires the PGCPS to provide documentation by March 10, 2023, of the steps taken to ensure that the violation does not recur at School. Specifically, any actions must include professional development addressing progress reporting, provision of progress reports to families, addressing the lack of progress, determination of services when a student has over 10 days of disciplinary removals, consistent implementation of interventions, accommodations, and supplementary aids and services and timely revisions of BIPs.

Similarly Situated Students in PGCPS

The PGCPS must determine whether there are other students during the 2022-2023 school year receiving special education services who have had disciplinary removals over ten (10) days whose behavior was determined not to be a manifestation of the student's disability, but were to receive services in their homes, in violation of COMAR 13A.05.01.10C(6). If there are similarly situated students, the IEP teams for those

students must convene and determine appropriate compensatory services. Further, the PGCPS must ensure that there are no students receiving special education services receiving disciplinary services in their homes for the 2023-2024 school year.

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/tg

c: Monica Goldson Keith Marston Shelly Woodson Darnell Henderson Henry Johnson

> Alison Barmat Gerald Loiacono Diane Eisenstadt Tracy Givens