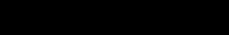




December 30, 2022




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: #23-088

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.

ALLEGATIONS:

On November 4 and 16, 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 following allegations:

1. Whether the PGCPS followed proper procedures when responding to a request for access to the student's record on September 2, 6, 7, 8, 9, 10, and 12, 2022, and a request for an explanation and interpretation of the student's education records made on September 7, 2022, in accordance with 34 CFR §300.613.
2. Whether the PGCPS followed proper procedures when responding to a request for access to the student's record regarding related services and consultation, behavioral data (including ABC data), assessment reports, attendance, extracurricular activities, behavior incidents in school and on the bus, behaviors relating to an incident with another student, disciplinary reports, attendance in activities outside of the school (field trips, etc.), documentation of behavioral incidents occurring while participating in activities outside of school, between March 23, 2022 and July 28, 2022, in accordance with 34 CFR §300.613.
3. Whether the PGCPS followed proper procedures when responding to a request to inspect and review the student's education records, for documentation of training for school staff or training for district

staff specific to the student, meetings and reviews, communication logs with the student's parents, the Maryland Online Parent Contact Log, review of communications with the student's parents, documentation of instruction provided to the bus driver and/or bus attendant, between March 23, 2022 and August 3, 2022, in accordance with 34 CFR §300.613.

4. Whether the PGCPs followed proper procedures when responding to a request to review the student's electronic files containing video recordings of the IEP team meetings held on April 21, 2022; May 12, 2022; May 18, 2022; July 18, 2022; July 25, 2022; April 21, 2022, and audio recordings from IEP team meetings held on May 12, 2022; May 18, 2022, July 18, 2022, and July 25, 2022, in accordance with 34 CFR §300.613.
5. Whether the PGCPs followed proper procedures when responding to a request to inspect and review the student's educational record including the sign in sheets for IEP team meetings conducted on April 21, 2022, May 12, 2022, May 18, 2022, July 18, 2022, and July 25, 2022, in accordance with 34 CFR §300.613.

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 [REDACTED], a nonpublic, separate, special education school.

FINDINGS OF FACT:

1. On August 4, 2022, the complainant sent correspondence to the PGCPs containing 43 separate requests to access records related to the student.
2. On September 2, 2022, the complainant sent correspondence to the PGCPs requesting access to records related to the student's transportation.
3. On September 6, 2022, the complainant sent correspondence to the PGCPs requesting access to video of the student on the bus during transportation on September 2, 2022.
4. On September 7, 2022, the complainant sent correspondence to the PGCPs again requesting access to documents identical to his September 2, 2022 request.
5. On September 8, 2022, the complainant sent correspondence to the PGCPs requesting explanation and interpretation of records related to the student's transportation.
6. On September 9, 2022, the complainant sent correspondence to the PGCPs requesting access to video of the student on the bus during transportation on March 21, 2022.
7. On September 12, 2022, the complainant sent correspondence to the PGCPs requesting access to video of the student on the bus during transportation on March 28, 2022.
8. On September 15, 2022, the PGCPs sent correspondence to the complainant explaining that some of his requests made on August 4, 2022 were not appropriately made under the IDEA. In this correspondence, the PGCPs informed the complainant that he could arrange for a time to access the records related to his August 4, 2022 requests that were appropriate under the IDEA.

9. There is no documentation, to date, that the PGCPs has provided a response to the complainant related to his September 2, 6, 8, 9 and 12, 2022 requests.
10. On December 19, 2022, the PGCPs sent documentation to the MSDE indicating that the response to the complainant's August 4, 2022 requests related to the IDEA was "in process".

DISCUSSION/CONCLUSIONS:

ALLEGATION #1: ACCESS TO RECORDS REQUESTED IN SEPTEMBER 2022

Based on Findings of Facts #2, #3, #6, #7 and #9, the MSDE finds that there is no documentation that the PGCPs followed proper procedures when responding to requests to access the student's record, on September 2, 6, 9, and 12, 2022, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on Findings of Facts #5 and #9, the MSDE finds that there is no documentation that the PGCPs followed proper procedures when responding to requests for interpretation and explanation of the student's record, on September 8, 2022, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on Findings of Facts #2 and #4, the MSDE finds that the complainant's September 7, 2022, request was identical to his September 2, 2022, request for access to records related to the student's transportation and that the PGCPs was not required to respond in accordance with 34 CFR §300.613. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

ALLEGATIONS #2-6: ACCESS TO RECORDS REQUESTED ON AUGUST 4, 2022

Based on the Findings of Facts #1, #8 and #10, the MSDE finds that there is no documentation that the PGCPs responded to each of the complainant's requests made on August 4, 2022, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to these allegations.

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.

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.

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.

Student Specific Corrections

The MSDE requires that the PGCPs provide the complainant with a response, by February 1, 2023 to each of the complainant's August 4, 2022, and September 2, 6, 9, and 12, 2022, requests for access to the student's educational records and his September 8, 2022, request for explanation and interpretation of the student's record.

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 and Special Education Services

MEF:gl

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

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.