



March 31, 2023

Ms. Debra Martin
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Suite 139- W
Largo, Maryland 20774

Ms. Trinell Bowman
Associate Superintendent Special Education
Prince George's County Public School
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #23-140

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 January 31, 2023, MSDE received a complaint from Ms. Debra Martin, hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Prince George's County Public School (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

Based on your correspondence, we investigated the following allegations:

1. The PGCPS has not followed proper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services, since July 29, 2022, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06.
2. The PGCPS has not developed an Individualized Education Program (IEP) that addresses the student's need for adult support and speech and language services since July 29, 2022, in accordance with 34 CFR §300.324.
3. The PGCPS did not ensure that an IEP team meeting convened on September 2, 2022, included the required participants, in accordance with 34 CFR §§300.321.
4. The PGCPS has not ensured that the IEP team has responded to a request to amend the student's education records to include accurate statements in the Prior Written Notices since July 29, 2022, in accordance with 34 CFR §300.618.

5. The PGCPs did not ensure that the IEP developed for the student accurately reflects the student's need for an assistive technology consultation, in accordance with 34 CFR §300.324.
6. The PGCPs has not ensured that the parent was provided with appropriate quarterly progress reports toward achieving the written language annual IEP goals since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.320 and .323.

BACKGROUND:

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

ALLEGATION #1: IDENTIFYING AND EVALUATING THE STUDENT

FINDING OF FACT:

1. In its written response, the PGCPs acknowledges that a speech report was not comprehensive enough to determine the level of speech services the student required.

CONCLUSION:

Based upon the Finding of Facts #1, MSDE finds the PGCPs has not followed proper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services, since July 29, 2022, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06. Therefore, this office finds a violation occurred with respect to allegation #1.

ALLEGATION #2: IEP THAT ADDRESSES THE STUDENT'S NEEDS

FINDINGS OF FACTS:

2. On July 29, 2022, the IEP team met to determine eligibility for special education services. The Prior Written Notice (PWN) generated after the IEP team meeting reflects that the IEP team found the student eligible for speech/language services. However, the speech/language report used as part of the eligibility process did not provide detailed information about the student's speech/language performance during the testing sessions. The IEP team agreed that additional data was required. The IEP team met again on August 31, 2022, to develop the student's IEP. The IEP team determined that the student's communication is an area that impacts her academic achievement and/or functional performance and recommended that she be provided with a speech/language consult two times a month. In addition, the student receives three hours and 45 minutes of special education services weekly within the general education classroom.
3. On September 2, 2022, the IEP team agreed to reconvene in thirty days when a speech/language pathologist is available to discuss services based on data collection. While this PWN also reflects that the IEP team agreed to discuss the need for additional adult support at the next meeting, there is no other additional documentation reflecting the student's need for additional adult support.

4. On November 2, 2022, the IEP team met, in part, to consider the student's speech/language needs. The PWN generated following the meeting reflects that a recommendation was made by the speech/language pathologist to change the student's speech/language intervention services to consult as needed. It further reflects that the parent was in agreement with the change.
5. On January 17, 2023, the IEP team met to consider the student's speech/language needs. The IEP team determined that the student's expressive, receptive, and pragmatic language skills do not impede her ability to access the curriculum. The team further determined that her language needs are addressed by the number of supports embedded within her current IEP and academic program.
6. There is no documentation that the IEP team reconvened to discuss the need for adult support after the September 2, 2022, IEP team meeting.

CONCLUSIONS:

Based upon the Findings of Facts #2- #5, MSDE finds that the PGCPs has developed an IEP that addresses the student's speech/language services since July 29, 2022, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation occurred with respect to this aspect of allegation #2.

Based upon the Findings of Facts #2- #6, MSDE finds that the PGCPs has not developed an IEP that addresses the student's need for adult support since July 29, 2022, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred with respect to this aspect of allegation #2.

ALLEGATION #3: IEP PARTICIPANTS

FINDINGS OF FACTS:

7. The Notice of an IEP team meeting generated on September 1, 2022, for the September 2, 2022, IEP team meeting, reflects that the IEP chair, instructional specialist, assistant principals, special education teacher, IEP case manager, psychologist, county compliance representative, parent, advocate, and student were invited to attend the IEP team meeting. The virtual IEP team meeting sign-in sheet, generated for the September 2, 2022, IEP team meeting, reflects that the general educator, assistant principal, special education department chair, special education coordinator, school psychologist, county compliance representative, advocate, and parent were in attendance.
8. There is documentation that the purpose of the September 2, 2022, IEP team meeting was to develop the student's IEP, which included a discussion of speech/language services. The PWN generated after the September 2, 2022, IEP team meeting reflects that the IEP team agreed to reconvene in thirty days when a speech/language pathologist is available to discuss services based on data collection.

CONCLUSIONS:

The public agency must ensure that the IEP team includes: the parent of the child, not less than one regular education teacher of the child (if the child is, or maybe, participating in the regular education environment); not less than one special education teacher of the child or provider of the child, a representative of the public agency who is qualified to provide or supervise the provision of, specially designed instruction to meet the

unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency; and an individual who can interpret the instructional implications of evaluation results and, when appropriate, the child. At the discretion of the parent or public agency, the IEP team may include other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate. (34 CFR §300.321(a)).

In this complaint, the complainant alleges that the September 2, 2022, IEP team meeting did not include the speech/language pathologist. Based upon the Findings of Facts #7 and #8, MSDE finds that the PGCPs did not ensure that an IEP team meeting convened on September 2, 2022, included the required participants, specifically the speech/language pathologist, in accordance with 34 CFR §300.321. Therefore, this office finds a violation occurred with respect to allegation #3.

**ALLEGATION #4: RESPONSE TO THE REQUEST TO AMEND THE STUDENT'S
EDUCATIONAL RECORD**

FINDINGS OF FACTS:

9. On August 2, 2022, the complainant emailed PGCPs staff to request an amendment to the student's speech and language evaluation. There is an email response from the PGCPs staff to the complainant on the same date reflecting an agreement to amend the student's speech and language evaluation.
10. On September 20, 2022, the complainant emailed the PGCPs staff to share her disagreement with a description of an issue in the most recent PWN. There is an email response from the PGCPs staff to the complainant dated September 21, 2022, and September 26, 2022, reflecting the PGCPs proposing a change to the wording of the PWN. There is email documentation of the agreement to change the wording between the PGCPs staff and the complainant, as well as the provision of the revised PWN to the complainant dated September 27, 2022.
11. On January 24, 2023, the complainant emailed the PGCPs staff requesting three adjustments to be made to the PWN from the January 17, 2023, IEP team meeting. There is an email response from the PGCPs staff to the complainant reflecting an update to the PWN as requested, as well as the provision of the updated PWN dated February 3, 2023.

CONCLUSIONS:

Based upon the Findings of Facts #9- #11, MSDE finds that the PGCPs has ensured that the IEP team has responded to a request to amend the student's education records to include accurate statements in the PWNs since July 29, 2022, in accordance with 34 CFR §300.618. Therefore, this office does not find a violation occurred with respect to allegation #4.

ALLEGATION #5: NEED FOR ASSISTIVE TECHNOLOGY CONSULT

FINDINGS OF FACTS:

12. The PWN generated after the September 2, 2022, IEP team meeting reflects that the IEP team agreed to an assistive technology consult being requested to determine if the student required assistive technology devices and services.

13. While the student's IEP, dated August 31, 2022, states that "the student does not require AT devices but does require AT services," the narrative description states that the student does not require AT services.
14. The student's IEP, dated August 31, 2023, reflects that the student requires the use of a "digital device" to complete the written language content goal. The student also receives the use of a calculator and has the supplementary aid of a "Technology Program," included on her IEP.

CONCLUSIONS:

Based upon the Findings of Facts #12- #14, MSDE finds that the PGCPs did not ensure that the IEP developed for the student accurately reflects the student's need for an assistive technology consultation, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred with respect to allegation #5.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION:

Consistent with 34 CFR §300.324(a)(2)(v), the IEP team must consider whether the student needs assistive technology devices and services. In this case, the IEP team stated the student had no assistive technology needs when they considered the special factors section of the IEP. Yet, on review of the whole IEP, the student's written language goal requires the use of assistive technology, and the student has accommodations and supplementary aids and services requiring the use of assistive technology. These inconsistencies make the student's needs in that area unclear.

Based upon the Findings of Facts #11- #13, MSDE finds that the PGCPs did not ensure that the IEP developed for the student clearly reflects the student's need for assistive technology. Therefore, this office does find a violation occurred.

ALLEGATION #6: PROVISION OF APPROPRIATE QUARTERLY PROGRESS REPORTS

FINDINGS OF FACTS:

15. The student's IEP developed on August 31, 2022, and amended on February 10, 2023, reflects that the student has a goal in the area of written language content.

"By August 30, 2023, when given a prompt to write a 200-word essay using a digital device on a topic for an audience, the student will produce a final draft including at least (3) examples of audience specific word choice, 1 clear thesis statement with reasons appropriate to specific audience and 3 pieces of evidence relevant to the audience per essay for 2 out of 3 topics."
16. The progress reports reflecting the student's progress towards achieving annual IEP goals reflect that the student did make sufficient progress in meeting their written language goal on November 10, 2022, and February 14, 2023. The progress reports reflect appropriate qualitative data and a narrative of the strengths and weaknesses of the student related to the written language goal.

CONCLUSION:

Based upon Findings of Facts #15 and #16, MSDE finds that the PGCPs has ensured that the parent was provided with appropriate quarterly progress reports toward achieving the written language annual IEP goals since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320 and .323. Therefore, this office does not find a violation occurred with respect to allegation #6.

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.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.

Student Specific

MSDE requires the PGCPs to provide documentation that the IEP team has convened, reviewed, and revised the special considerations and accommodations, specifically, to have an accurate statement of the student's needs in relation to assistive technology by April 28, 2023, and determination of the student's need for adult support. In addition, the IEP team must also determine whether the violations related to improper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services - specifically, the failure to include a speech/language pathologist at the September 2, 2022 IEP team meeting, the failure to determine the student's need for adult support, and the inconsistent documentation of the student's need for assistive technology - 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 remedies to redress the violations and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

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

School Based

MSDE requires the PGPCS to provide documentation of the steps taken to ensure that the violations regarding the improper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services, the lack of a speech/language pathologist at the IEP team meeting held on September 2, 2022, lack of determination of the student's need for adult support, and the lack of accurately identifying assistive technology needs do not recur at [REDACTED] School. Those steps must include staff development, as well as tools created to document and monitor responses to a request for identifying and evaluating students and tools to monitor the participants of IEP team meetings. In addition, MSDE further requires the PGPCS to develop and implement a monitoring tool to review whether the student's assistive technology needs are aligned with the student's IEP goals, accommodations, and supplementary aids and supports. The submission of the completed monitoring tool for a random sample of fifteen students is to be submitted by June 2, 2023.

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

DMF: sd

c: Monica Goldson
Keith Marston
Darnell Henderson
Henry Johnson
[REDACTED]
Alison Barbat
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