

April 17, 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, Maryland 20785

| RE: | |
|------------|---------|
| Reference: | #23-152 |

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 February 22, 2023, MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of her client, Ms. **Control of Control of Control**

MSDE investigated the following allegations:

- 1. The PGCPS has not ensured that the student has been provided with the identified social/emotional and behavioral support required by the Individualized Education Program (IEP) since February 2022, in accordance with 34 CFR §§300.101 and .323. Specifically, the following was alleged:
 - a. The student was not provided with adult support;
 - b. The student was not provided with social skills class/group;
 - c. The student was not provided with positive behavior interventions strategies from a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP).
- 2. The PGCPS has not ensured that the student was provided with the transportation services required by his IEP since February 2022, in accordance with 34 CFR §§300.101 and 323.
- The PGCPS has not ensured that the student's IEP was reviewed and revised to address his lack of expected progress toward achieving annual IEP goals since February 2022, in accordance with 34 CFR §300.324.

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- 4. The PGCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings convened April 29, 2022, in accordance with COMAR 13A.05.01.07.
- 5. The PGCPS did not provide proper written notice of the IEP team decisions from the IEP team meeting on April 29, 2022, in accordance with 34 CFR §300.503.
- 6. The PGCPS did not follow proper procedures when responding to a request for an IEP team meeting, since the start of the 2022-2023 school year, in accordance with 34 CFR §300.503.
- 7. The PGCPS did not ensure that proper procedures were followed when responding to a request to inspect and review the student's educational record, since February 9, 2023, in accordance with 34 CFR §300.613.
- 8. The PGCPS has not followed proper procedures when conducting a reevaluation in all areas of suspected disabilities since February 2022, in accordance with 34 CFR §§300.303-.306.

BACKGROUND:

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

FINDINGS OF FACTS:

ALLEGATION # 1 and 8 PROVISION OF IEP SUPPORTS AND SERVICES AND REEVALUATION PROCEDURES

- 1. The student's education record reflects that he was last evaluated for eligibility under the IDEA on February 25, 2021.
- The student's IEP in effect as of February 2022, contains present levels of academic achievement and functional performance (PLAAFP) and goals that were developed on April 14 and 20, 2021. The IEP reflects that the student requires support in the areas of Behavioral -Self-management and Behavioral - Social Emotional. The student required:
 - One hour daily of support with social/emotional and behavioral goals within the general education classroom.
 - 17 hours and 55 minutes per week of special education classroom instruction within the general education classroom utilizing a co-taught model for English/ Language Arts, Math, and Science.
 - 11 hours and 40 minutes of service per month within the general education classroom utilizing a co-taught model for Social Studies on alternating A/B days.
 - Weekly access to cognitive flexibility instruction that included the mental ability to switch between thinking about two different concepts, and to think about multiple concepts simultaneously.
 - Daily coping strategies to assist students with communicating his feelings/emotions, understanding social situations, rules and expectations.

- Daily adult support provided across all settings to assist the student with staying focused, completing assignments, transitions, regulating behavior and emotions, and providing instructional support.
- Monthly social skills/class or group inside the general education or outside of general
 education to partner with other peers to express his emotions and frustration and learn
 ways to deal with his feelings.
- 3. On January 24, 2023, the IEP team met to address the parents' concerns regarding implementation of the student's IEP. The parent shared with the team that as a result of not receiving the adult support required by his IEP, the student had been bullied, was not able to participate in classroom instruction, and as a result, was earning poor grades.
- 4. During the meeting, the PGCPS staff informed the parent that the school was trying to hire an Additional Adult Support (AAS) and would attempt to assign alternative staff in the interim to provide the student with adult support in the classroom.
- 5. On March 23, 2023, the IEP team met to discuss the parent's concerns and consider the need for an evaluation of the student. The IEP team reviewed records, parent and teacher input, the active IEP, IEPs from the past three years, grades, attendance, and student work samples. The IEP team agreed to conduct a reevaluation of the student recommended an evaluation to include assessments in the following areas:
 - Academics (Reading, Mathematics, and Writing);
 - Cognitive/intellectual autism rating scales social-emotional behavior rating scales;
 - Trauma Assessments;
 - Occupational Therapy (OT) evaluation, to include a sensory profile;
 - Functional Behavior Assessment.
- 6. There is no documentation, to date, that the IEP team has met to complete the evaluation of the student.
- 7. There is no documentation the student has received daily coping strategies, a monthly social skills/class or groups, or adult support in the classroom since February 2022.

CONCLUSIONS:

Provision of IEP Supports

Based on the Findings of Facts #1 to #4, #7 MSDE finds that the PGCPS did not ensure that the student has been provided with the identified social/emotional and behavioral support required by the Individualized Education Program (IEP) since February 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Reevaluation in suspected disability

Based on finding of facts #5 and #6, MSDE finds that the PGCPS did follow proper procedures when conducting a reevaluation in all areas of suspected disabilities since February 2022, in accordance with 34 CFR §§300.303-.306. Therefore, this office finds that a violation did not occur with respect to the allegation.

ALLEGATION #2 PROVISION OF TRANSPORTATION SERVICES

- 8. The IEP in effect as of February 2022 requires that the student receive specialized transportation as a related service to and from school daily to ensure that behaviors on the bus are monitored by an attendant from April 15, 2021, to April 14, 2022.
- 9. There is no documentation that the student was provided daily transportation from February 2022, through April 29, 2022.
- 10. On April 29, 2022, the IEP team met to review and revise the student's IEP, as appropriate. The IEP team determined that the student no longer required transportation services.

CONCLUSIONS:

In this complaint, the complainant alleges that the PGCPS did not ensure that the student was provided with the transportation services required by his IEP from February 2022 to April 29, 2022 in accordance with 34 CFR §§300.101 and 323.

Based on the Findings of Facts #8 to #10, MSDE finds that the student was not provided with the transportation required by his IEP from February 2022 to April 29, 2022. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #3 LACK OF PROGRESS TOWARD IEP GOALS

- 11. The reports of the student's progress dated February 15, 2022, reflect that the student "Achieved" his classroom-based social emotional goal.
- 12. The reports of the student's progress dated April 13, 2022, reflect that the student "Achieved" his classroom-based behavioral self-management goal.
- 13. The reports of the student's progress dated June 10, 2022, reflect that the student was making sufficient progress to meet his classroom-based social emotional goal.
- 14. The reports of the student's progress dated June 10, 2022, reflect that the student's behavioral selfmanagement goal was a "newly Introduced skill; progress not measurable at this time."
- 15. There is no documentation the PGCPS provided the parent with quarterly progress reports toward achieving the annual IEP goals from June 10, 2022, through March 28, 2023.
- 16. The reports of the student's progress dated March 28, 2023, reflect that the classroom-based socialemotional goal was a "newly Introduced skill; progress not measurable at this time."
- 17. The reports of the student's progress dated March 28, 2023, reflect that the student's behavioral self-management goal was "newly introduced skill; progress not measurable at this time."

CONCLUSIONS:

Based on Findings of Facts of Fact #15, MSDE finds there was no documentation of progress reporting on the student's academic annual IEP goals during the time period in question requiring action on the part of the PGCPS, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation. Notwithstanding these findings, MSDE finds, based on Finding of Fact

#15, that the PGCPS has not ensured that the parents consistently received progress reports for the student reflecting his progress towards annual IEP goals, in accordance with 34 CFR §§300.320 and .323. Therefore, MSDE finds that a violation has occurred.

ALLEGATIONS #4 AND #5 PROVISION OF PRIOR WRITTEN NOTICE AND COMPLETED IEP DOCUMENT

- 18. On April 29, 2022, the IEP team met and revised the student's IEP.
- 19. There is no documentation the parent was provided with a copy of the completed IEP document within five business days after IEP team meetings convened on April 29, 2022.
- 20. There is no documentation that the PGCPS provided proper written notice of the IEP team decisions from the IEP team meeting on April 29, 2022.

CONCLUSIONS:

Provision of the completed IEP

Based on the Findings of Fact #19, MSDE finds the PGCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings convened on April 29, 2022, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation has occurred with respect to the allegation.

Provision of Prior Written Notice

Based on the Findings of Fact #20, MSDE finds the PGCPS did not provide proper written notice of the IEP team decisions from the IEP team meeting on April 29, 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation has occurred with respect to the allegation.

ALLEGATION #6 PARENT RESPONSE TO IEP MEETING

- 21. On February 17, 2023, the student's grandmother emailed the staff at the student's school, to state she "continues to await possible times and dates for an IEP meeting." The complainant requested that the school move forward with processing the student's transfer, assist with the request for records, requested that the IEP team convene for the student, and for a copy of the district's policy for the records request.
- 22. On February 24, 2023, the student's grandparent emailed the school staff requesting an update on the "lack of response" to the parent's request for an IEP meeting. The parent received a response from the school stating a school staff would identify a time and date for the requested IEP meeting.
- 23. On March 1, 2023, the student's grandparent emailed the school staff seeking advice on the next steps or requested another administrator to handle scheduling the IEP team meeting, as she still had not received a response.
- 24. There is documentation on March 2, 2023, the school staff corresponded with the grandparent to arrange to ask for three dates that work for the family. The school staff proposed that the IEP team meet on March 17, 2023.

CONCLUSION:

Based on the Findings of Fact #21 to #24, MSDE finds that because the PGCPS convened an IEP team meeting at parent request, it was not required to provide the parent with prior written notice, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #7 ACCESS TO STUDENT RECORDS

- 25. There is documentation the complainant corresponded via email on February 17, 2023,¹ with the school staff that the school has "not compiled her request for records."
- 26. There is documentation that the family and advocate were instructed to create an account in "Scribbles" in order to receive student records. The complaint tried to set up an account but "access was denied". She was provided with the contact for technical support.
- 27. There is documentation the complaint received access to the requested documentation prior to the March 23, 2023, IEP team meeting.

CONCLUSION:

Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or resolution session and in no case more than 45 days after the request has been made.

Based on the Findings of Fact #25 to #27, MSDE finds the PGCPS did ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since February 9, 2023, in accordance with 34 CFR §300.613. Therefore, this office finds a violation did not occur 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, 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.² 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

¹ There is no documentation of a request prior to the parent's February 17, 2023 correspondence.

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ 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 May 31, 2023, that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the violations, specifically, the lack of implementation of certain provisions of the IEP and lack of progress reporting, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The PGCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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

DC/sj

c: Monica Goldson Darnell Henderson Keith Marston Henry Johnson

> Alison Barmat Gerald Loiacono Diane Eisenstadt Stephanie James

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.