



August 25, 2023

Corrected 9/1/2023

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: [REDACTED]  
Reference: #23-269

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 June 28, 2023, 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 did not follow proper procedures when determining the student’s educational placement since June 2022, in accordance with 34 CFR §§300.114 - .116.
2. The PGCPS has not ensured that the student’s Individualized Education Program (IEP) was reviewed and revised to address his lack of expected progress toward achieving the IEP goals and address his behavioral needs since June 2022, in accordance with 34 CFR §300.324.
3. The PGCPS has not ensured that the student has been provided counseling as a related service as required by the IEP since June 2022, in accordance with 34 CFR §§300.101 and .323.
4. The PGCPS has not ensured that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320.

**BACKGROUND:**

The student is 12 years old and is identified as a student with Autism under the IDEA. The student **currently attends** ██████████ ██████████ School. **During the 2022- 2023 school year, the student attended** ██████████ ██████████ School. He has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The student's IEP, in effect on June 22, 2022, was amended on June 21, 2022. The IEP requires that the student be provided with support in the areas of math calculation, reading comprehension, written language expression, and behavioral -social emotional/behavioral. The IEP requires that the student receive 22.5 hours of special education instruction weekly inside of the general education classroom.<sup>1</sup> The student also receives one 30-minute session a week of counseling outside of the general education setting.
2. The IEP reflects the determination that the student benefits from a placement in a small, highly structured special education program with a low student to teacher ratio with opportunities for individual and small group instruction, as well as a comprehensive behavior approach with clear limits to address his social/emotional and academic needs, as his least restrictive environment (LRE).
3. The student is placed in the PGCPs' Social Emotional Academic Development (SEAD) which is a non-categorical program serving eligible students with disabilities, that focuses on academic achievement, behavior management, and social-emotional wellness. Special education services include specialized academic instruction, counseling support, social skills, social emotional learning, positive behavior management prevention support and crisis intervention.
4. The student's IEP reflects that the student experiences delays in the areas of emotional regulation, self-management, working memory and attention. These difficulties impact his ability to initiate tasks without multiple reminders and prompts, which are a significant weakness during classroom instruction. "The student's distractibility, difficulty regulating his body and filtering auditory input to remain focused in a group setting negatively impact his ability to attend and participate throughout his educational setting." At times, the student requires crisis intervention due to oppositional behavior and poor emotional regulation.
5. On August 30, 2022, the student received a "threat assessment" due to harmful remarks made about himself.
6. On September 2, 2022, a school staff contacted the parent regarding harmful threats the student was making about non-active suicidal ideation. The parent stated that the student is no longer receiving outside mental health therapy and would like for the school to provide that service. The school staff referred the student to the ██████████ clinician housed at ██████████ ██████████ School with the parents' permission.

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<sup>1</sup> This appears to be in error. The student's IEP states that he requires a small setting outside of the general education classroom in several other places, and the student's least restrictive environment determination is that he requires placement in a small classroom outside of the general education setting. The LRE page also says that he is in an early childhood center. The IEP is rife with errors and inaccuracies.

7. On December 19, 2022, the IEP team met to complete the annual IEP, discuss ESY and the student's progress reports. The IEP reflects that the student requires support in the areas of math calculation, reading comprehension, reading phonics, written language expression, written language mechanics, and behavioral - social emotional/behavioral. The IEP required that the student receive five hours weekly of special education instruction inside of the general education classroom with his non-disabled peers and five hours daily outside of the general education classroom. The student also received one 30-minute session a week of counseling outside of the general education setting to address coping skills, self-advocacy, and social skills.
8. The IEP team proposed conducting an updated Functional Behavior Assessment and Behavior Intervention Plan (FBA)/(BIP) as his previous ones were completed on March 9, 2021, and they did not address the student's current behaviors of rushing through assessments/classwork and peer interactions.
9. There is no documentation that the student received an updated FBA and BIP pursuant to the recommendations of the IEP team on December 19, 2022.
10. During the meeting, the IEP team proposed to "continue with the goals from the student's previous IEP where he did not achieve these goals on his progress reports"; however, there is documentation of the student "making sufficient progress to meet goals" in the area of math calculations and one of the student's social emotional goals on October 28, 2022. These are the areas of concern in which the IEP team proposed to retain as they were. The IEP team updated the student's overall goals to include current 6th grade level standards.
11. There is no documentation that the IEP team had a discussion around revising the student's need for supplementary aids and supports, and accommodations, as they are identical to the prior IEP and there is no mention of the team determining no changes were needed in the prior written notice.
12. There is no documentation that the IEP team had a discussion around the student's LRE as the statement is identical to the prior IEP and there is no mention of the team determining no changes were needed in the prior written notice.
13. There is no documentation the IEP team had a discussion regarding placement as it was not an area of concern from the parent nor the school team and there is no mention of the team determining no changes were needed in the prior written notice.
14. On January 31, 2023, a school-based staff member contacted the parent due to the student making concerning remarks. The parent stated she would "come to the school to get the student."
15. On February 1, 2023, the student was suspended for three days due to a threat to a student.
16. On April 14, 2023, the student was suspended for one day due to physical attack on another student, disruption, and physical aggression.
17. On May 12, 2023, the IEP team met to address the parents' concern regarding bullying and strategies to support the student. During the meeting, the school team stated they moved the student's classroom in October due to bullying incidents. The student reported this has been happening since elementary school. The IEP team created a plan to support the student that included a safety plan, a

form to document incidents of bullying, staff check ins to see if the student had concerns while in class, assigned staff to report to if the student felt bullied, social skills training on bullying, teacher reporting of bullying incidents and parent called prior to dismissal.

18. There is no documentation the IEP team addresses the allegations of bullying affecting the student's mental health and ability to access the general education curriculum. The IEP did not update any IEP goals to reflect any additional support needed.
19. On May 15, 2023, the student received a "suicide assessment" provided by the school counselor due to harmful remarks to harm himself. The school counselor "strongly encouraged" the complainant to seek additional mental health support for the student due to the incident and provided the complainant with community resources.
20. There is no documentation of the school staff informing the complainant the student could not return until a mental health assessment was completed.
21. There is documentation that the student has been provided counseling as a related service as required by the IEP since June 2022.
22. There is no documentation data was collected or that the student received all required quarterly progress reports toward achieving his annual IEP goals for the 2022- 2023 school year.
23. There is no documentation the parent was provided with all quarterly progress reports during the 2022- 2023 school year.
24. Due to the fact that the student did not receive the required quarterly progress reports, there is no documentation the team was aware of the student's progress or met to discuss his lack of progress throughout the school year.

#### **CONCLUSIONS:**

#### **ALLEGATION #1: PLACEMENT DETERMINATION**

In this complaint, the complainant alleges that the PGCPs did not discuss the need to determine the student's placement due to a change in disability classification.

Based on the Findings of Facts #2 to #4, #12, and #13, MSDE finds that there was not a need for the PGCPs to change the student's educational placement since June 2022, based on a change in the student's disability. Rather, placement changes are based on the inability to meet a student's needs and implement the student's IEP in a certain placement, in accordance with 34 CFR §§300.114 - .116. Therefore, this office finds that a violation has not occurred with respect to this aspect of the allegation.

#### **ALLEGATION #2: IEP REVIEWED TO ADDRESS LACK OF EXPECTED GROWTH**

Based on the Findings of Facts #7 to #11 and #22 to #24, the PGCPs has not ensured that there were quarterly progress reports. Therefore, the IEP team was unable to determine whether the student's IEP needed to be reviewed and revised to address his lack of expected progress, toward achieving the IEP goals

and address his behavioral needs since June 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 #3: PROVISION OF RELATED SERVICE**

Based on the Findings of Fact #21, MSDE finds that the PGCPs has ensured that the student has been provided counseling as a related service as required by the IEP since June 2022, 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.

**ALLEGATION #4: PROVISION OF QUARTERLY PROGRESS REPORTS**

The PGCPs must ensure the provision of written information about the student's progress toward their IEP goals and that the written information is based on the data collection method required by the IEP (34 CFR §§300.101, .320, and .323).

Based on the Findings of Facts #21 to #24, MSDE finds that the PGCPs has not ensured that the complainant was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

**ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

**EVALUATION PROCEDURES**

Based on Findings of Facts #8 and #9, MSDE finds that the IEP team did not ensure that the FBA and BIP that was recommended by the IEP team on December 19, 2022, were completed in a timely manner, in accordance with 34 CFR §§300.300 and COMAR 13A.05.01.06. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

**PROVISION OF PRIOR WRITTEN NOTICE OF THE IEP DECISIONS**

The PGCPs must ensure the provision of prior written notice each time the school proposes to take (or refuses to take) certain actions with respect to a child with a disability (34 CFR 300.503).

Based on Finding of Facts #4 and #5, MSDE finds that the PGCPs did not provide a proper prior written notice of the IEP team's decisions to identify why there were no changes made the student's supplementary aids and services, accommodations, some goals, LRE, and placement from the IEP team meeting on December 19, 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation has occurred 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.<sup>2</sup> 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.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

**Student Specific:**

MSDE requires the PGCPS to provide documentation by October 30, 2023, that the IEP team has convened to review and revise the student's IEP, including the annual goals, supplementary aids and services, accommodations, services, LRE and placement decisions. The team must also complete the student's FBA and BIP and review it during this meeting.

Determine the amount and nature of compensatory services or other remedy to redress the violations of the lack of provision of progress reports, the lack of completion of a functional behavior assessment and implementation of a behavior plan, and the lack of providing the parent with proper prior written notice of the decisions of the IEP team and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPS must provide the parent with proper prior written notice of each of the decisions, including the basis for any decision not to make a revision to existing supports, services, or placement. The complainant maintains 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 that PGCPS provide the staff at [REDACTED] [REDACTED] **School** with professional development addressing the violations identified in this Letter of Findings, specifically, addressing progress reporting and the implications to the provision of a free appropriate public education (FAPE) if it is not provided, the need to follow through on recommendation of the IEP team to complete FBAs and BIPs, and the implications to the provision of FAPE if they are not provided, and the need to provide proper prior written notice of each decision of the IEP team prior to implementation in order to ensure that the parent fully understands and can participate in the process.

In addition, MSDE requires that PGCPS monitor the records of 20 randomly selected students at [REDACTED] [REDACTED] **School** and submit a report quarterly to MSDE (on or before November 30, 2023, January 31, 2024,

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<sup>2</sup> 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.

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

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March 15, 2024, and June 15, 2024) reflecting the following data points:

- If the student was recommended to receive an FBA and/or BIP, the dates of referral and the date of completion;
- Progress reports included for each quarter on each IEP and documentation that it has been sent to the parent; and
- Prior written notice including all the elements pursuant to 34 CFR 300.503(b).

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/sj

c: Millard House II  
Keith Marston  
Darnell Henderson  
[REDACTED]  
Gerald Loiacono  
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