

December 15, 2023

Ms. Jessica R. Williams  
1296 Cronson Boulevard #4071  
Crofton, Maryland 21114

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

RE: [REDACTED]  
Reference: #24-049

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 October 16, 2023, MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of her client, the above referenced student. In that correspondence, the complainant alleged that the 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 Individualized Education Program (IEP) contains annual goals designed to meet the student's identified needs in the areas of toileting and speech/language since October 2022, in accordance with 34 CFR §300.320.
2. 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, in accordance with 34 CFR §300.324.
3. The PGCPs did not ensure that the parent was consistently provided with reports of the student's progress toward achieving the annual IEP Reading Vocabulary goals since October 2022, in accordance with 34 CFR §§300.320 and .323.
4. The PGCPs has not ensured that the student has been consistently provided with speech/language and occupational therapy services required by the IEP since October 2022, in accordance with 34 CFR §300.101 and .323.

**BACKGROUND:**

The student is 7 years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] [REDACTED]. The student has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

**ALLEGATION #1: IEP GOALS DESIGNED TO MEET STUDENT'S TOILETING AND SPEECH/LANGUAGE NEEDS**

1. The IEP in effect for the student in October 2022 was developed on April 7, 2022, and amended on October 17, 2022. The amendments were made to update the student's summary of assessment findings in the areas of behavior (other, and social-emotional) and academics, and to update the student's IEP goals. The October 2022 IEP included goals in reading vocabulary, social-emotional/behavioral, math problem-solving, handwashing, and physical education. The present levels of academic achievement and functional performance reflected that the student was not yet using the bathroom independently. There was no goal in place to address the student's toileting needs.
2. According to the prior written notice from the October 17, 2022, IEP meeting, the speech-language pathologist stated that since the student was no longer going to be in the early childhood setting, she would like to update the student's goals toward an elementary school setting, changing the student's speech-language goals to a communication goal. The student's special education teacher reviewed the student's updated math, handwashing, and behavior goals. At this meeting, neither the complainant nor the school-based team made mention of any toileting concerns for this student.
3. The IEP team met again on March 15, 2023, to review and revise the student's IEP. During the review of the student's instructional assessments and accommodations, the speech and language pathologist stated that the student "...will continue to receive speech-language services, however, his communication goal will be embedded in his reading vocabulary goal." The special education teacher reviewed the student's academic goals and objectives and stated that the academic data focus would be on core words to support the student's communication skills. The team reviewed the student's behavioral concerns, and it was stated that the student's dominant behaviors of concern included "dropping on the floor, elopement from the group during structure and tabletop activities, and crawling under the desks." The autism specialist asked the parents for permission to complete a Functional Behavior Assessment for the student and explained the process for developing such. The parents agreed to provide consent for the assessment. There was no mention of toileting concerns for this student made by the student's parents or the school-based IEP team.
4. On May 10, 2023, a functional behavior assessment (FBA) was completed for the student. The disruptive behaviors listed in the FBA were "dropping on the floor, crawling under the desk(s), climbing, and off the seat from the group during structured or tabletop activities." The two target behaviors of the FBA were elopement (off the seat, but stay within the area of instruction), and disruptive behavior (dropping on the floor, crawling under the desk(s), climbing). Toileting was not a behavior targeted by the FBA.
5. On May 22, 2023, the IEP team reconvened to review the FBA. The prior written notice from this meeting stated that data was collected from March 21, 2023, until May 10, 2023, to develop the FBA. It was stated that the graph developed for the FBA showed that the student's disruptive maladaptive behaviors were inconsistent and additional data would need to be collected. It is also reflected that at that time the

complainant requested a dedicated aide for the student and asked a question “regarding two people [being needed] to help change [the student’s pull-up].” The prior written notice states that the teacher told the parent that this has occurred when the student is in a playful mood, “...[but] there’s no reason to take data for this behavior because it does not happen every day.” The team agreed with the outcome of the meeting and also agreed that a Behavior Intervention Plan was not needed for this student at that time. The team determined to continue to collect data and meet again at the end of October to review the FBA.

6. On October 26, 2023, the IEP team met to review the student’s FBA. The team members discussed the results of the data collection and the interventions that would help the student improve and/or decrease his maladaptive behaviors. The speech-language pathologist again explained that the student’s speech and language goal is embedded in his reading vocabulary goal. The complainant requested more services, “...but the SLP declined because [the student was] making progress at [that] level of service, and his behavior [was] continuing to improve.” The complainant disagreed with this statement and disagreed with the provision of speech-language services in a group setting. The speech-language pathologist stated that she would send a permission slip home with the student to allow for her to communicate with the student’s outside speech pathologist. The team reviewed the student’s occupational therapy IEP goals and agreed that they would focus on functional hand use, such as cutting and forming straight lines. The prior written notice reflects that due to the progress that the student had made to date the occupational therapist declined the request for an increase in services. The adapted physical education goals were reviewed, and the student’s special education teacher reviewed the student’s academic goals. With regard to toileting, the teacher stated, “During the bathroom schedule, [the student] can sit on the toilet while he is watching YouTube and with the adult seated beside him.” The team agreed to meet again on November 29, 2023, to discuss the student’s BIP and to provide information for the special education office regarding a dedicated aide for the student.

### **CONCLUSION:**

An IEP developed for a child with a disability must include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disability (34 CFR § 300.320).

The student’s April 7, 2022, IEP and his March 15, 2023, IEP embed communication goals in the vocabulary goal. The IEPs also include supplementary aids and services that align with the student’s strengths as indicated in his present levels of academic achievement and functional performance, such as the use of pictures and modeling. The student is also provided with both low- and high-tech devices to assist in communication, as well as developing the ability to sign. With respect to toileting, while it is accurate that his toileting needs are not addressed in the student’s IEP, there was no indication that the team determined that it was appropriate to do so at this time. IEP teams prioritize goals and determine what is appropriate and reasonable to be met in any given year.

Based on the Finding of Facts # 1, #2, #3, #4, and #6, MSDE finds that the PGCPs has ensured that the student’s IEP contains annual goals designed to meet the student’s identified needs in the areas of speech/language since October 2022, in accordance with 34 CFR §300.320. Further, MSDE finds that PGCPs was not required to include goals addressing the student’s toileting needs. Therefore, this office finds that a violation did not occur with respect to the allegation.

**ALLEGATION #2 and #3: ADDRESSING THE LACK OF PROGRESS TOWARD IEP GOALS and PROVISION OF PROGRESS REPORTS**

7. When the student's IEP for the 2022-2023 school year was developed, the student was attending Chapel Forge ECC/boundary school. During that time, the student's IEP dated April 7, 2022, was developed.
8. The student began attending C. Elizabeth Rieg Regional School in the fall of 2022 for the 2022-2023 school year. The IEP team at [REDACTED] met on September 9, 2022, to reflect the change in schools in the student's IEP. The IEP team at [REDACTED] met again on October 17, 2022, to conduct a thirty day review for the student. The prior written notice from this meeting states that the team considered revising the student's goals and objectives, but this option was rejected because the student was in kindergarten. The team reviewed the student's progress on the goals that were listed in the IEP dated April 7, 2022. At this meeting the Adapted Physical Education teacher stated that the student was doing well and his IEP would be amended to reflect current present levels of performance, goals and services. The student's speech language pathologist stated that the student was doing well and provided the student's parents with data reflecting his progress on his goals. The occupational therapist discussed the student's progress on these goals, and the special education teacher provided information on the student's progress in his academic goals.
9. The student's IEP in place at this time, dated April 7, 2022, contained goals in the areas of social-emotional/behavioral, reading vocabulary, math problem solving, handwashing, and physical education.
10. The student's progress reports dated 11/4/2022, 1/24/2023, 3/15/2023 reflect that the student was making sufficient progress to meet all of his goals with the exception of physical education as the student's goal in that area was changed in the March 15, 2023, IEP.
11. On March 15, 2023, the IEP team met to conduct the annual review for this student. The prior written notice reflects that the team reviewed the student's previous IEP goals and shared data on these goals with the student's parents.
12. The student's IEP dated March 15, 2023, contains goals in the areas reading vocabulary, math problem solving, handwashing, physical education, and social-emotional/behavioral. The student's progress report dated 3/30/2023 states that the student had newly introduced goals in the areas of reading vocabulary, math problem solving, physical education, and social-emotional/behavioral. On April 11, 2023, the student's progress report reflects a newly introduced skill in the area of behavioral - self management.
13. The student's progress report dated 6/9/2023, reflects that the student was making sufficient progress to meet his goals in the areas of reading vocabulary, math problem solving, handwashing, behavior- self management, and social-emotional/behavioral. The progress report date for physical education is dated 6/13/2023, and also reflects that the student was making sufficient progress to meet his goals.
14. The parent contact log for this student reflects the following:
  - o 11/22/2022 - "the first quarter progress reports were sent to the parents electronically."
  - o 2/08/2023 - "The report card and progress reports were sent to the parents through the student."
  - o 6/09/2023 - "The progress reports were sent to the parent electronically."
  - o 11/21/2023 - "The progress report was [placed] in [the student's] bookbag."

**CONCLUSIONS:**

Each public agency must ensure that the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals.

Progress data reflects that the student was making slow, steady progress on his annual goals. Accordingly, no IEP team meetings were required. Based on the Finding of Facts #7 through #13, MSDE finds that PGCPs was not required to meet to review and revise, as appropriate, the student's IEP to address the lack of expected progress toward achieving the IEP goals, in accordance with 34 CFR §300.324. Additionally, based on Finding of Facts #14, PGCPs did ensure that the parent was consistently provided with reports of the student's progress toward achieving the annual IEP Reading Vocabulary goals since October 2022, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to the allegation.

**ALLEGATION #4:                   PROVISION OF SPEECH AND LANGUAGE and OCCUPATIONAL  
THERAPY SERVICES**

15. The student's IEP dated October 17, 2022, stated that the student was to receive two twenty-minute sessions of occupational therapy monthly, and three thirty-minute sessions of speech and language therapy per month from April 7, 2022, through April 6, 2023.
16. The student's IEP dated March 15, 2023, states that the student should receive two twenty-minute sessions of occupational therapy monthly, and three thirty-minute sessions of speech and language therapy per month from March 16, 2023, through March 15, 2024.
17. There is documentation demonstrating that the student received the required occupational therapy sessions with the exception of February 27, 2023 (student absent), and April 7, 2023 (school closed). Two other missed sessions on November 25, 2022, and October 31, 2023, were made up on December 9, 2022, and November 13, 2023, respectively.
18. There is documentation demonstrating that the student received the required speech and language therapy sessions with the exception of October 10, 2022 (school closed), December 26, 2022 (school closed), January 16, 2023 (school closed), February 20, 2023 (school closed), March 6, 2023 (school closed), April 3, 2023, and another unidentified date in April (school closed). The following missed sessions were made up: June 5, 2023 (make-up session on May 22, 2023); September 14, 2023 (make-up session on September 19, 2023); October 5, 2023 (make-up session on October 3, 2023); October 19, 2023 (make-up session on October 23, 2023); and November 13, 2023 (make-up session October 30, 2023).
19. According to the documentation, the student has seven sessions of speech and language therapy that were missed but have not been made up.

**CONCLUSIONS:**

At the beginning of each school year, each public agency must have an IEP in effect for each child with a disability within its jurisdiction. Each public agency must ensure that as soon as possible following

development of the IEP, special education and related services are made available to the child in accordance with the child's IEP (34 CFR § 300.323).

Based on the Finding of Fact #19, MSDE finds that PGCPs has not ensured that the student has been consistently provided with speech/language services required by the IEP since October 2022, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation did 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.<sup>1</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>2</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 that the IEP team at [REDACTED] convene to determine appropriate compensatory services, or other remedy for the lapse in the provision of speech and language services for the student. The meeting must be held prior to March 15, 2024, and the plan to provide services must be completed prior to August 2024.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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

---

<sup>1</sup> 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.

<sup>2</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.

Ms. Jessica Williams  
Ms. Trinell Bowman  
December 15, 2023  
Page 7

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,

Antoine L. Hickman, Ed.D.  
Assistant State Superintendent  
Division of Early Intervention and Special Education Services

ALH/ebh

c: Millard House II, Superintendent  
Keith Marston, Compliance Instructional Supervisor  
Darnell Henderson, General Counsel  
Lois Jones-Smith, Special Education Compliance Liaison  
Alison Barmat  
Gerald Loiacono  
Nicole Elliott  
Paige Bradford  
Diane Eisenstadt  
Elizabeth B. Hendricks