



December 28, 2023

Ms. Jaime Seaton
110 N. Washington Street, Suite 404
Rockville, Maryland 20850

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: #24-064

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 November 1, 2023, MSDE received a complaint from Ms. Jaime Seaton, 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 has not developed an Individualized Education Program (IEP) that addresses the student's social emotional, and attendance needs since November 1, 2022, in accordance with 34 CFR §§300.101 and .324.
2. The PGCPS has not ensured that the IEP team addressed the parent's concerns regarding the student's progress, placement, speech and language, and occupational therapy needs since May 2023, in accordance with 34 CFR §300.324.
3. The PGCPS did not follow proper procedures when conducting a comprehensive reevaluation of the student in all areas of suspected disability, since May 2023, in accordance with 34 CFR §§300.303- .306 and COMAR 13A.05.01.06.
4. The PGCPS did not ensure that the parent was provided with quarterly reports of the student's progress toward achieving the annual IEP goals since November 2022, in accordance with 34 CFR §§300.320 and .323.

5. The PGCPs did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational records on June 8, 2023, and August 8, 2023, in accordance with 34 CFR §300.613.

BACKGROUND:

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

FINDINGS OF FACTS:

1. In its written response, the PGCPs acknowledges that an IEP has not been developed that addresses the student's social emotional and attendance needs since November 1, 2022.
2. On May 11, 2023, the IEP team convened to conduct an annual review of the student's IEP. The Prior Written Notice (PWN) generated after the IEP team meeting reflects, the IEP team reviewed the student's benchmarks, informal assessments, work samples, teacher reports and determined the student was making academic progress on his goals and objectives. The IEP team reviewed the IEP, updated the student's present levels of performance to reflect his current academic needs. The parent provided a "doctor's report" that recommended that the student receive one hour a week of occupational therapy and two sessions per week of speech and language services at thirty minutes per session. The PGCPs' occupational therapist and speech and language therapist indicated they "would consider" the recommendations; however, the speech and language therapist felt the proposed services would remove the student from his academic classes for "too long". The occupational therapist shared that the amount of time was "too much" for a high school student. The parent requested a Functional Behavior Assessment (FBA). The IEP team agreed to conduct the FBA. There is no documentation that the occupational therapist and speech and language therapist considered the recommendations from the doctor's report, other than to reject the time considerations because that is not the standard practice at the high school level. There is no documentation that the actual student needs were considered in light of the recommendations.
3. On August 8, 2023, the IEP team convened to address the parent's concerns. The PWN generated after the IEP team meeting reflects the parent shared the following concerns:
 - lack of communication between home and school;
 - student's safety;
 - lack of progress;
 - not receiving the quarterly IEP progress reports;
 - student's mental health and anxiety;
 - development of an FBA;
 - suspension; and
 - current program and placement.

The IEP team reviewed input from the parent, school administrator, teacher, attorney, and PGCPs central office staff. The IEP team considered the student's current IEP and existing assessment reports. The PGCPs staff shared the student struggles with inattention during instruction, classroom participation, decoding, written expression, communication, and disruptive behavior. The PGCPs school staff proposed to collect academic and behavioral data, develop an FBA to be reviewed at the next IEP team meeting, have the PGCPs Autism Specialist and parent advocate conduct an observation of the student, provide the parent with information regarding an administrative transfer, and schedule an IEP team meeting for September 2023. There is no documentation that the

IEP team addressed the parent's concerns regarding lack of communication, student's safety, provision of quarterly progress reports, the student's mental health and anxiety, or suspensions.

4. On September 28, 2023, the IEP team met to follow up on the parent's concerns from the August 11, 2023, IEP team meeting. The Prior Written PWN generated after the IEP team meeting reflects, the parent shared the following concerns:
 - the student's placement in the "█████" program;
 - completion of the FBA;
 - student's fear of returning to ██████████ School;
 - student's anxiety diagnosis; and
 - request for an administrative transfer.

The parent also shared that a Home and Hospital Teaching application was completed on September 26, 2023, and that the student is not attending school due to his anxiety concerns. The IEP team reviewed current attendance data and input from the parent, school administrator teacher/case manager, attorney, and PGCPs central office staff. The PGCPs staff shared that the student has not been in attendance for the 2023-2024 school year; therefore, they were unable to collect academic and behavior data, conduct the FBA, and complete classroom observations. The speech and language therapist shared that the student was making excellent progress on his receptive language goals, puts forth "a good effort" on his expressive language goals, and benefits from sentence starters and praise. The PGCPs team encouraged the parent to send the student to school, sharing that the Pupil Personnel Worker (PPW) had been informed of the student's absences, and the PGCPs attendance policy would be followed. There is no documentation that the IEP team addressed the student's placement in the ██████ program and the parent's request for an administrative transfer.

5. The PGCPs acknowledges that the student's FBA was not completed within the timeline. Specifically, they attribute the delay to the student being absent thirteen days in the fourth quarter of the 2022-2023 school year.
6. On May 25, 2023, the parent provided consent for the FBA.
7. June 16, 2023, was the last day of school for the 2022-2023 school year.
8. While there is documentation that the student was absent for thirteen days in the fourth quarter of the 2022-2023 school year, there is no documentation of the student's absences from May 30, 2023, to June 16, 2023.
9. The PGCPs acknowledges that the parent was not provided with quarterly reports of the student's progress toward achieving the annual IEP goals since November 2022.
10. On June 8, 2023, parent's counsel sent an email to PGCPs' legal counsel requesting the student's cumulative file.
11. On August 7, 2023, parent's counsel sent an email to PGCPs' legal counsel inquiring about the status of receiving the student's cumulative file.
12. On August 7, 2023, PGCPs' legal office staff emailed parent's counsel and provided IEPs (dated May 21, June 15, October 6, 2021; May 12, 2022; and May 11, 2023), prior written notices (dated June 14 and November 9, 2021; May 11, October 6, and October 8, 2022), and assessment reports (dated June 30, 2022, and October 4, 2022).

13. On August 8, 2023, during the IEP team meeting, the parent's counsel requested the IEP progress reports.
14. On August 15, 2023, PGCPs' legal office staff emailed parent's counsel and provided twelve documents from the student's Unique Learning System.
15. On August 15, 2023, parent's counsel sent an email to PGCPs' legal counsel inquiring if the entire cumulative file was sent and if there were IEP progress reports.
16. On August 15, 2023, PGCPs' legal office staff emailed parent's counsel indicating additional documents would be provided if they were received from the school team.
17. On August 16, 2023, PGCPs' legal office staff emailed parent's counsel indicating a delay in providing any additional documents due to a cyberattack.
18. On August 24, 2023, PGCPs' legal office staff emailed parent's counsel and provided a PWN from May and August 2023, and four documents titled c1s1, c1s2, c2s1, and c2s2.
19. There is documentation that the student's IEP dated May 12, 2022, included IEP progress for the following goals:
 - receptive and expressive language goals dated November 2, 2022, and March 30, 2023;
 - math problem solving dated November 7, 2022, and February 3, 2023;
 - written language content dated November 2, 2022; and
 - reading comprehension dated November 2, 2022.
20. There is documentation that the student's IEP dated May 11, 2023, included IEP progress for the following goals:
 - expressive language goals dated November 2, 2023;
 - math problem solving dated June 6, 2023;
 - written language content dated June 6, 2023; and
 - reading comprehension dated June 6, 2023.

CONCLUSIONS:

Based upon the Findings of Fact #1, MSDE finds that the PGCPs has not developed an IEP that addresses the student's social emotional, and attendance needs since November 1, 2022, in accordance with 34 CFR §§300.101 and .324. MSDE appreciates the PGCPs' acknowledgement and concurs that a violation occurred with respect to the allegation.

Based upon the Findings of Facts #2 to #4, MSDE finds that the PGCPs has ensured that the IEP team addressed the parent's concerns regarding the student's progress since May 2023, 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.

Based upon the Findings of Facts #2 to #4, MSDE finds that the PGCPs has not ensured that the IEP team addressed the parent's concerns regarding the student's placement, speech and language, and occupational therapy needs since May 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based upon the Findings of Facts #5 to #8, MSDE finds that the PGCPs did not follow proper procedures when conducting a comprehensive reevaluation of the student in all areas of suspected disability, since May 2023, in

accordance with 34 CFR §§300.303- .306 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to the allegation.

Based upon the Findings of Fact #9, MSDE finds that the PGCPs did not ensure that the parent was provided with quarterly reports of the student's progress toward achieving the annual IEP goals since November 2022, in accordance with 34 CFR §§300.320 and .323. MSDE appreciates the PGCPs' acknowledgement and concurs that a violation occurred with respect to the allegation.

Based upon the Findings of Facts #10 to #20, MSDE finds that the PGCPs did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational records on June 8, 2023, and August 8, 2023, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include 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 non-compliance 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 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 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 by March 1, 2024, that the school system has convened an IEP team meeting to determine appropriate compensatory services or other remedy to address the violations identified in this Letter of Findings and develop 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 parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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, 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 PGCPs to provide documentation by March 15, 2024, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the development of an IEP that addresses the student's identified needs, addressing parent concerns, reevaluation procedures, provision of progress reports, and response to request to review student records under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring must include a review of at least 15 randomly selected student records to ensure the IEP addresses the student's needs as identified in the present levels, that the student has been evaluated on a timely basis, that progress reports are complete and provided to the family on a quarterly basis, and that any response to review records is complete and timely, as required by their IEP and applicable regulations. The monitoring report must be submitted to MSDE on or before March 31, 2024.

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,

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

ALH/tg

c: Mr. Millard House II, Superintendent, PGCPs
Mr. Keith Martson, Compliance Instructional Supervisor, PGCPs
Mr. Darnell Henderson, General Counsel, PGCPs
Ms. Lois Jones-Smith - Special Education Compliance Liaison, PGCPs
[REDACTED]
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Ms. Tracy Givens, Complaint Investigator, MSDE