

January 16, 2024

Ms. Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, MD 20785

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

RE: [REDACTED]
Reference: #24-075

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 17, 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 has not followed proper procedures when identifying and evaluating the student to determine if they are a student with a disability requiring special education services, under the IDEA, since November 17, 2022, in accordance with 34 CFR §§300.111, .300 - .306, and COMAR 13A.05.01.06.
2. The PGCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational records since October 25, 2023, in accordance with 34 CFR §300.613.
3. The PGCPS has not provided the parent with prior written notice of the IEP team's decisions from the Individualized Education Program (IEP) team meetings convened since November 17, 2022, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is nine years old and is identified as a student with an Emotional Disability under the IDEA. She attends [REDACTED] School in Prince George's County and has an IEP that requires the provision of special education services.

FINDINGS OF FACTS:

1. On October 25, 2023, the parent emailed the PGCPs Superintendent. The email reflects that parent requested suspension documents.
2. On November 14, 2022, a Section 504 Meeting was convened. The purpose of the meeting was to conduct an initial evaluation. The evaluation was requested due to the student's anxiety, being easily triggered by testing/assessments, and changes in the student's routine. The student's documented impairment is anxiety, and it limits her ability to concentrate. The Section 504 team determined that the student was eligible to receive services provided by a Section 504 Plan.
3. The Section 504 plan developed on November 14, 2022 requires:
 - extended time for tests and assessments;
 - small group with minimal distractions for state testing;
 - separate or alternate location for testing;
 - reduce distractions to self;
 - frequent breaks during testing and assessments;
 - use of calming strategies and breaks as needed;
 - time to calm down when upset; and
 - a daily checklist of things to do for the day.
4. The student's report card for the 2022-2023 school year reflects that the student did not demonstrate any academic or behavioral difficulties.
5. On July 17, 2023, the parent emailed the PGCPs staff to request an evaluation of the student under IDEA.
6. On July 21, 2023, PGCPs staff emailed the parent requesting to initiate the evaluation process at the start of the 2023-2024 school year to allow for teacher participation.
7. On July 21, 2023, the parent emailed the PGCPs staff and agreed to initiate the evaluation process at the start of the 2023-2024 school year.
8. On October 9, 2023, the parent provided the PGCPs staff with private assessments.
9. On October 26, 2023, the IEP team met to determine eligibility for special education services. The Prior Written Notice (PWN) generated after the IEP team meeting reflects, the IEP team reviewed teacher observations, work samples, and the following private assessments:
 - Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V);

- Woodcock-Johnson IV Tests of Achievement (Form C);
- Wechsler Individual Achievement Test-Fourth Edition (WIAT- 4) (Essay and Sentence Composition);
- Lateral Dominance Examination;
- Grooved Pegboard Test; Rey Complex Figure Test (RCFT);
- California Verbal Learning Test – Children’s Version(CVLT-C)
- select subtests-Wide Range Assessment of Memory and Learning-Third Edition (WRAML-3);
- Category Fluency Test; Controlled Oral Word Association Test; A Developmental Neuropsychological;
- Assessment (NEPSY-II) (Social Perception Domain);
- Conners Continuous Performance Test Third Edition (CPT3); and
- Cancellation Test; Trail Making Test, Parts A and B; Multidimensional Anxiety Scale for Children –Second Edition (MASC-2) (self-report and parent forms).

The IEP team determined that the student was eligible for special education services as a student with an emotional disability. The IEP team agreed to conduct a Functional Behavior Assessment (FBA).

The parent inquired whether occupational therapy would be “helpful” for the student. The PGCPS occupational therapist participated in the meeting. Based upon her review of the neuropsychological assessment, she shared the difference between a school based occupational therapy model and a medical based model. The private assessment indicated that the student demonstrates “adequate or exceptional visual motor skills, visual perceptual skills, and fine motor skills. The occupational therapist clarified the difference between using school counseling from a mental health professional and occupational therapy for self-regulation strategies. The occupational therapist recommended an occupational therapist “consult” to support school staff and provide strategies to implement in the classroom. The occupational therapist further recommended that the IEP team should review the data after initial implementation of the IEP and determine if more information was needed.

10. On November 27, 2023, the PGCPS staff emailed the complainant and the parent a copy of the September 2023 suspension documents.
11. On November 30, 2023, the IEP team met to develop the student’s initial IEP. The PWN generated after the IEP team meeting reflects the parent’s proposed written language mechanic goals. The IEP team determined that the data and teacher observations did not support a need for written mechanic goals but agreed to monitor the student’s written mechanics skills. The PGCPS central office staff shared that areas of need can be addressed by the IEP team at any time throughout the school year. The parent also expressed concerns about the student’s sensory needs. The PGCPS occupational therapist explained that the student’s needs are best addressed through counseling and psychological services because the student is not displaying any “adverse reactions to sensory input in the school environment.” The parent’s advocate indicated it was a formal request for an occupational therapy assessment supported by new concerns of the parent. The PGCPS occupational therapist requested permission to assess the student’s fine motor skills for written language output and to complete a sensory profile to provide data for the team. The IEP team agreed to conduct an assessment of the student’s motor skills. The parent’s advocate also requested a “Behavior Intervention Plan (BIP) draft”. The PGCPS staff explained that a FBA is required to determine if the student requires a BIP. The assistive technology instructional specialist proposed a consultation to determine if assistive technology is needed to address the student’s needs. The IEP team considered special education

services inside the general education setting and special education services inside the general education setting with pull out services. The IEP team determined that the student would benefit from special education, accommodations, and supplementary aids and services in the general education setting. The student's IEP requires accommodations and modifications for instruction and testing, supplementary aids and services, two thirty-minute sessions per week of specialized instruction inside the general education setting, and three twenty-minute psychological service sessions per month. The IEP team considered if the student required extended school year services (ESY). The IEP team determined that this is an initial IEP and no data has been collected and that the student's educational program will not significantly be jeopardized without ESY services.

12. On December 20, 2023, the IEP team met to review the student's FBA. The PWN generated after the IEP team meeting reflects the IEP team reviewed a classroom observation, ABC chart, and a Neuro-Psychological Report (7/25/23 & 8/24/23). The IEP team determined that based upon the student's emotional dysregulation, inappropriate peer and adult interaction, and elopement that a BIP should be developed. The IEP team agreed to meet on January 11, 2024, to develop the BIP.

DISCUSSION/CONCLUSIONS:

The IEP team shall complete an initial evaluation of a student within sixty days of parental consent for assessments. The timeline for completion does not apply if the parent of the student repeatedly fails or refuses to produce the student for assessments; or the student enrolls in a different public agency before the completion of the initial evaluation started in the student's former public agency of enrollment. (34 CFR § 300.301 and COMAR 13A.05.01.06(A)).

Based upon the Findings of Facts #2 to #9 and #11 to #12, MSDE finds that the PGCPs has not followed proper procedures when identifying and evaluating the student to determine if they are a student with a disability requiring special education services, under the IDEA, since November 17, 2022, in accordance with 34 CFR §§300.111, .300 - .306, and COMAR 13A.05.01.06. Specifically, the PGCPs did not complete the initial evaluation within sixty days of parental consent. Therefore, this office finds that a violation occurred with respect to the allegation.

Based upon the Findings of Facts #1 and #10, MSDE finds that the PGCPs did ensure the proper procedures were followed when responding to a request to inspect and review the student's educational records since October 25, 2023, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation did not occur with respect to the allegation.

Based upon the Findings of Facts #9, and #11 to #12, MSDE finds that the PGCPs has provided the parent with prior written notice of the IEP team's decisions from the Individualized Education Program (IEP) team meetings convened since November 17, 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur with respect to the allegation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

The PGCPs shall ensure that an IEP team meets to develop an IEP for a student with a disability within thirty days of the evaluation. (COMAR 13A.05.01.08)

Based upon the Findings of Facts #9 and #11, MSDE finds that the PGCPS did not ensure that the student's IEP was developed within thirty days of the student's initial evaluation, in accordance with COMAR 13A.05.01.08. Therefore, this office finds that a violation occurred.

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 IEP team has convened and determined whether the violation related to the delay in completing the initial evaluation and developing the student's IEP 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 remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPS must ensure that the parent is provided with prior 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.

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 initial evaluations and IEP development under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance.

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.

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, PGCP
Mr. Keith Martson, Compliance Instructional Supervisor, PGCP
Mr. Darnell Henderson, General Counsel, PGCP
Ms. Lois Jones-Smith, Special Education Compliance Liaison, PGCP
[REDACTED]
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, 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