

March 15, 2024

**Amended October 16, 2024**

Ms. Frances Shefter, Esquire  
110 N. Washington Avenue, Suite 350  
Rockville, Maryland 20850

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

RE: [REDACTED]  
Reference: #24-127

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 on the final results of the investigation.

**ALLEGATIONS:**

On January 17, 2024, MSDE received a complaint from Ms. Shefter, hereafter, "the complainant," on behalf of the 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) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS did not follow proper procedures since January 2023 to fulfill its Child Find obligation to ensure that the student was evaluated and identified as a student with a disability under the IDEA, in accordance with 34 CFR §§ 300.111, 300-.311 and COMAR 13A.05.01.04 - .06.
2. The PGCPS has not developed an Individualized Education Program (IEP) that addresses the student's identified social/emotional/behavioral needs since January 2023, in accordance with 34 CFR §§ 300.101 and .324.

**BACKGROUND:**

The student is 15 years old and is identified as a student with Multiple Disabilities (MD) due to an Emotional Disability (ED) and Specific Learning Disability (SLD) under the IDEA. She attends [REDACTED] ([REDACTED]) and has an IEP that requires the provision of special education instruction and related services.

## **FINDINGS OF FACT:**

1. In December of 2023, the parent made a written request for consideration of special education services due to the student's academic challenges.
2. On January 19, 2023, the IEP team, which included the Section 504<sup>1</sup> team, met to conduct a data review for the student to determine if the student was eligible for special education services. The Prior Written Notice (PWN) reflects that the parent made a written request for IEP services due to the student's academic challenges. The parent shared that the student was doing "a lot of work behind the scenes" to keep up with her coursework, but it was becoming overwhelming and was possibly unsustainable. The IEP team reviewed the student's record, parental input, teacher observations, the student's grades, progress reports, and attendance records. The student's grades reflect passing grades in all of her classes, with her lowest grade being 78% in Foundations of Computer Science in the first quarter and an 87% in English Language Arts in the second quarter. The IEP team determined that no additional information was needed and that the student did not meet the eligibility requirements for special education services. The team referred the student back to the Section 504 team for consideration.
3. Documentation reflects that the student was evaluated and hospitalized from February 4, 2023, through February 17, 2023, due to a mental health breakdown. On February 23, 2023, the parent provided a letter from the student's mental health provider to the IEP team and shared that the student was returning to the hospital. The letter reflects that the student met the criteria for major depressive disorder, generalized anxiety disorder, and social anxiety disorder. The letter states that the student's "... generalized anxiety manifests in the school setting in the form of rigidity and perfectionism surrounding grades... and her social anxiety manifests in the school setting as difficulty asking for help, engaging in certain classes due to fear about what peers are thinking, and trouble making friends/interacting with peers. The student's depression affects her engagement and concentration and makes her vulnerable to feeling overwhelmed and having negative thoughts about herself and her abilities." The document further states that the student has a longstanding history of difficulty with reading and math that has increased since ending homeschooling and beginning high school, and her academic difficulty has been exacerbated by the increasing academic demands in high school. This has caused concern for a potential learning disability. The document recommends that the student would benefit from "...a psychoeducational evaluation and an IEP to address her severe anxiety, depression, and potential learning disability." The summary of evaluation further recommends the following accommodations:
  - a flash pass to take breaks in a designated area when experiencing anxiety or feeling overwhelmed;
  - providing an alternate location to complete assignments and testing (to reduce anxiety and distraction);
  - extended time for tests and assignments;
  - breaking down assignments into smaller pieces;
  - providing written instructions/assignments along with oral instructions;
  - providing copies of notes (best done in advance);

---

<sup>1</sup> "Section 504" refers to Section 504 of the Rehabilitation Act of 1973, requiring schools to provide a free appropriate public education (FAPE) to each eligible student, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of a student without a disability are met. (34 CFR § 104.33).

- access to calming material and stress ball;
  - identify one adult at school to seek help from when feeling anxious or struggling with her depression (a school counselor, if available);
  - identify a location where the student feels comfortable eating lunch; and
  - participate in groups for anxious students if possible.
4. There is no documentation that the IEP team met again to consider if the student was a child with a disability based on the new information received from the student's healthcare providers.
  5. On February 28, 2023, the PGCPs conducted a psychological assessment as a part of the Student Support Team's (SST) recommendations. The psychological evaluation reflects that the PGCPs psychologist used several measures, including cognitive, reading, and math assessments, to determine whether the student should be referred to the IEP team. The report summarized that the student's general cognitive functioning was in the below-average to average range, with evidence of a cognitive processing disorder in the area of processing speed and phonological processing. The student's core overall reading skills fell below age and grade level expectations and the student may experience difficulty across the language spectrum, poor phonological processing skills, slower rapid and automatic word-recognition skills, and error patterns in her reading, all of which are indicative of dyslexia. The report further states that the student's core overall math skills are below grade-level expectations, with evidence of global math delays, thus meeting the eligibility criteria as a student with a Specific Learning Disorder (SLD).
  6. The "Notice and Consent for Assessment" form completed on April 25, 2023, reflects that the IEP team considered the results from a record review, behavioral observations, and the February 28, 2023, PGCPs psychological assessment. The IEP team determined the student required assessments in the area of academic performance, specifically reading, math, and written language.
  7. **On May 4, 2023, the IEP team met to determine the student's eligibility for special education services.** The PWN drafted after the meeting reflects that the IEP team considered the student's record, a behavioral observation, the PGCPs psychological assessment (February 28, 2023), and the PGCPs educational assessment (May 3, 2023). The IEP team determined that the student met the eligibility criteria as a student with SLD requiring special education services. The IEP team developed the student's initial IEP.
  8. There is no documentation that a classroom observation was conducted to support the SLD identification.
  9. The IEP developed for the student on May 4, 2023, reflects the student is eligible as a student with Multiple Disabilities (MD) due to an Emotional Disability (ED) and SLD. The areas affected by the disability are math calculation, reading comprehension, written language expression, and social-emotional/behavioral. The student's present level of academic achievement and functional performance (PLAAFP) reflects that the student is on a sixth-grade instructional level in reading comprehension, a fifth-grade level in math calculation, and below grade level in written language expression and social-emotional/behavioral. The secondary transition planning in the student's IEP reflects that the interest inventories were emailed to the student and parent because the student

was attending an outpatient program due to health concerns. The IEP requires the following special considerations and accommodations:

- small group
- reduced distractions to self and others
- calculation device and mathematics tools on calculation sections of the mathematics assessment and non-calculation assessments
- extended time (2.0x)

The IEP provided the following supplementary aids, services, program modifications, and supports:

- reading and math interventions
- frequent and/or immediate feedback
- a reduced number of answer choices
- modified content
- breaking down assignments into smaller units
- check-in with a trusted adult, referral to a counselor

The IEP includes goals in the areas of written language expression, reading comprehension, social-emotional/behavioral, and math calculation. The social-emotional/behavioral goal reflects, “By the end of the school year, the student will increase their use of positive coping skills when faced with an anxious situation from 50% of the time to 80% of the time. This will be measured through the use of self-monitoring checklists.”

The IEP team determined that the student did not qualify for Extended School Year (ESY) services. The IEP team considered placement outside of general education, inside general education without supports and accommodations, and inside general education with supports and accommodations. The team determined that special education services would be provided in general education for two three-hour sessions per week (?) totaling six hours of supported inclusion in small classes for special education support in English and math, and co-taught classes for science and social studies. The least restrictive environment for the student was determined to be inside general education for 80% or more of the school day, with no time outside of general education.

10. There is no documentation that the student’s IEP contains a transition plan based on age-appropriate assessments.
11. On October 26, 2023, the IEP team met at the request of the parent to review and revise the student's IEP. The PWN generated after the IEP team meeting reflects that the IEP team considered “parental input, a record review, and an interview” to make its determinations. The parent’s advocate shared that the student was struggling to advocate for her IEP, and this was causing her major anxiety and stress. The IEP team determined that the student required counseling as needed, a flash pass to be used periodically, a home-school communication system, and a check-in with a trusted adult as supplementary aids and supports.

The student's reading and math interventions were removed to allow her more time in academic resource to receive assistance with her classroom coursework. The IEP team further determined that a referral would be made to the school’s mental health clinician for bi-weekly sessions as needed.

12. There is no documentation that a safety plan was developed for this student or that a referral was made to the school's mental health clinician.

## **DISCUSSIONS AND CONCLUSIONS:**

### **Allegation #1: Child Find Obligations**

Each public agency must have in effect policies and procedures to ensure that children who are suspected of being a child with a disability and in need of special education, are identified, located, and evaluated. This obligation, known as "Child Find", includes students that are advancing from grade to grade.

(34 CFR §300.111) While the IEP team may not have had data to support an eligibility determination in January 2023, it subsequently received information that the student had a mental health crisis requiring hospitalization. Based on this information and information received from the student's healthcare provider in February 2023, the IEP team should have suspected the student was a child with a disability and reconvened to consider whether additional data was necessary to evaluate the student and make an eligibility determination.

Based upon Findings of Fact #2 to #4, MSDE finds that the PGCPs did not follow proper procedures since January 2023 to fulfill its Child Find obligation to ensure that the student was evaluated and identified as a student with a disability under the IDEA, in accordance with 34 CFR §§ 300.111, 300-.311 and COMAR 13A.05.01.04 - .06. Therefore, this office finds that a violation did occur with respect to the allegation.

## **ADDITIONAL VIOLATION FOUND IN THE COURSE OF THE INVESTIGATION**

### **PROPER EVALUATION PROCEDURES**

When making a determination of SLD, the public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty. (34 CFR § 300.310) In this case, the student's May 4, 2023, IEP identifies the student as eligible for special education services as a student with SLD and ED. There is no documentation that a classroom observation of the student was conducted as required for an eligibility determination of SLD.

Based on Findings of Fact #5 to #8, MSDE finds that the PGCPs failed to follow proper evaluation and eligibility procedures to determine the student eligible as SLD since February 23, 2023, in accordance with 34 CFR § 300.111.

Beginning no later than when the student turns 14, or younger if appropriate, and updated annually, thereafter, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills. (34 CFR § 300.320 and COMAR 13A.05.01.09)

Based upon Findings of Fact #10 and #11, MSDE finds that the PGCPs has failed to develop a transition plan based upon age-appropriate assessments since May 4, 2023, in accordance with 34 CFR § 300.320 and COMAR 13A.05.01.09.

**Allegation #2: AN IEP THAT ADDRESS THE STUDENT’S EMOTIONAL NEEDS**

Based on the Findings of Facts #3, #9, and #11, MSDE finds that **the PGCPs has developed an IEP that addressed the student’s identified social/emotional/behavioral needs since May 2023**, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation did not occur with respect to the allegation.

**CORRECTIVE ACTIONS AND 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. 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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Barmat can be reached at (410) 767-7770 or by email at [alison.barmat@maryland.gov](mailto:alison.barmat@maryland.gov).

**Student-Specific:**

MSDE requires the PGCPs to provide documentation by June 1, 2024, that the school system has taken the following actions:

- Conduct age-appropriate transition assessments;
- Conduct a classroom observation;
- Develop a safety plan as recommended by the team; and
- Convene an IEP team meeting to discuss the completed assessments and observation and determine the amount and nature of compensatory services or other remedy to address the violations in this Letter of Finding regarding child find procedures 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 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.<sup>4</sup>

---

<sup>2</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>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.

<sup>4</sup> Although the parent has concerns regarding the PGCPs grading policies and procedures, that is something that cannot be investigated in an IDEA State Complaint. However, parents may pursue these concerns through the local superintendent and school board.

**School-Based:**

MSDE requires that no later than June 1, 2024, the PGCPs provide professional development to the IEP team at [REDACTED] regarding what the required child find and evaluation procedures require, and how to fulfill those requirements in accordance with state and federal regulations; how to make eligibility determinations in accordance with state and federal regulations; how to complete appropriate transition assessments when a student may not be present in the school setting, and how to develop individualized safety plans for students in a way that is consistent with the IEP.

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 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, Chief Executive Officer, PGCPs  
Keith Marston, Compliance Instructional Supervisor, PGCPs  
Lois Jones Smith, Compliance Liaison, PGCPs  
Darnell Henderson, General Counsel, PGCPs  
William Fields, Associate General Counsel, PGCPs  
[REDACTED], Principal, PGCPs  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Tracy Givens, Section Chief, Dispute Resolution MSDE  
Elizabeth B. Hendricks, Complaint Investigator, MSDE